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Received

July 18, 1906

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OF

TRINIDAD AND TOBAGO.

Vol. I.

Trinidad:

PRINTED AT THE GOVERNMENT PRINTING OFFICE, PORT-OF-SPAIN.

1902.

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Rec. July 18, 1906

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No. 1.

AN ORDINANCE to consolidate the Laws relating to Procedure in respect of offences punishable on Summary Conviction.

1. This Ordinance may be cited as "The Summary Con- Short Title.
viction Offences (Procedure) Ordinance."

2. In this Ordinance unless the context otherwise requires: Interpretation.

"Justice" and "Justice or Justices" includes any Stipendiary or other Justice and Justices of the Peace having jurisdiction under this Ordinance or under any Ordinance or law past or future or by the Common Law.

"Clerk" means any clerk or assistant clerk of the Peace appointed pursuant to this Ordinance.

"Court" or "Summary Court," unless the same is expressly or by implication qualified, means any Stipendiary or other Justice or Justices of the Peace when sitting in open Court to hear and determine all matters within his or their power and jurisdiction either under the provisions of this Ordinance, or under the provisions of any other Ordinance or Law, past or future, and such Stipendiary or other Justice or Justices of the Peace when so sitting as aforesaid shall be and be deemed to be a "Court" or "Summary Court" within the meaning of this Ordinance.

"Open Court" means any room or place appointed as hereinafter provided in which any Court shall be sitting to hear and determine all matters within its jurisdiction and to which room or place the public may have access so far as the same can conveniently contain them.

"Summary Conviction Offence" means any offence punishable on Summary Conviction and includes any matter in respect of which the Court can make an order in the exercise of its Summary Jurisdiction.

"Order" includes any conviction in respect of a summary conviction offence.

"Penalty" includes any pecuniary fine, forfeiture, or compensation recoverable or payable under an order.

"Complainant" means the person who lays, or swears to, the information or complaint.

"Defendant" means the person against whom the information is laid or sworn, or the complaint made.

"Keeper" means the officer having the charge of any prison in the Colony.

"Vessel" includes every kind of ship, boat or craft whether propelled by steam, sails, oars or other motive power.

"Oath" includes affirmation in the case of Quakers, and any solemn affirmation which by law may be made instead of an oath.

"Police Officer" means any commissioned or non-commissioned officer of police or police constable.

"Child" means any person who, in the opinion of the court before whom he appears or is brought, is above seven and under twelve years of age.

"Guardian" in relation to a child, means the parent or other lawful guardian of such child and includes any person who, in the opinion of the Court having cognizance of any case in which such child is concerned, has for the time being the custody, control, or charge of such child.

"Prescribed" means prescribed by Rules of the Supreme Court or by Rules made under the authority of this Ordinance.

PART I.

GENERAL PROVISIONS.

Stipendiary
Justices.

3. His Majesty may from time to time by Warrant under the hand of the Governor and the Seal of the Colony appoint Stipendiary Justices of the Peace, and in case of the death, retirement, removal from office or absence on leave of any Stipendiary Justice may appoint some other person to be or to act as a Stipendiary Justice in his place, and every such Stipendiary Justice shall hold office during His Majesty's pleasure.

Districts and
Jurisdiction.

4. The Governor may from time to time assign to each of such Stipendiary Justices a district within the Colony, and appoint places and times for their attendance for the hearing of all cases which they are competent to hear and determine; but every such Stipendiary Justice shall have jurisdiction throughout the Colony.

Justices of the
Peace.

5. His Majesty may from time to time by Warrant under the hand of the Governor appoint any number of persons being residents within any town or district to be Justices of the Peace for such town or district: and may by a like Warrant remove any such person from the office of Justice of the Peace.

Any such Justice on being adjudicated a Bankrupt shall be so removed.

6. The Governor may from time to time appoint Clerks, Clerks. and such Clerks shall act for such districts, and shall attend at such places and times as the Governor shall from time to time appoint.

7. The several persons actually in office as Stipendiary Justices and Clerks at the commencement of this Ordinance shall continue to discharge the duties of their respective offices subject to the provisions of this Ordinance. Existing Officers.

8. Every Stipendiary Justice shall have authority to hear and determine any complaint of an offence punishable on summary conviction committed by any person whether within the Colony or on any British vessel on the high seas which vessel shall after such offence has been committed come to the Colony. Offences on high seas.

9. Every Stipendiary Justice shall have and exercise all powers, privileges, rights and jurisdiction which may have been or may be by this Ordinance or by any Ordinance or law, past or future, or by common law vested in one Justice, or in two or more Justices. Powers, etc., of Stipendiary Justices.

10. In every proceeding had before any Court or Justice, except such as are hereinafter specified, the fees set forth in Schedule I to this Ordinance, or such fees as the Governor may from time to time determine in pursuance of this Ordinance, shall be allowed and taken, and in some conspicuous part of every police office there shall be affixed a table of such fees: Provided always that any Stipendiary Justice shall have power in any proceeding in which good cause appears to him for so doing, to suspend payment of any fees payable therein until the conclusion of such proceeding, and he may then direct such fees to be paid as costs by any party to the proceeding by whom he has power to order costs to be paid. Fees. Suspension of fees.

11. Any Justice or clerk who shall, directly or indirectly, ask for or receive upon any pretence whatever any fee, reward, gratuity or recompense beyond the fees specified in the First Schedule to this Ordinance, or such fees as may from time to time be fixed by the Governor in manner provided by this Ordinance, for any act done, or to be done by him in the execution of his office or in anywise relating to any complaint, matter or proceeding before any Court or Improper demand of fees.

Justice, shall be guilty of an offence against this Ordinance and on summary conviction thereof may be fined any sum not exceeding Fifty Pounds and in default of payment shall be imprisoned with or without hard labour for any term not exceeding six months.

Rules.

12. The Governor may from time to time make, alter or rescind rules in relation to the following matters, or any of them, that is to say:—

(a.) Fees to be paid under this Ordinance.

(b.) Accounts to be rendered of moneys received by any person under this Ordinance.

Any rules purporting to be made in pursuance of this section shall be laid before the Legislative Council as soon as may be after they are made, and shall have no force or effect until approved by such Council and published in the *Royal Gazette*.

Public Officers;
exemption of
from fees.

13. No fees shall be taken on any information, complaint, or other proceeding before any Court or Justice brought by any Police Officer acting as such or by any other officer in the public service in his official capacity; and any Clerk charging, claiming or taking any fee from such Police or public officer shall be guilty of an offence against this Ordinance; and on summary conviction thereof shall be fined any sum not exceeding Ten Pounds, and in default of payment shall be imprisoned either with or without hard labour for any term not exceeding six months.

Fees payable
to Justice.

14. All fees received, and all penalties and forfeitures, and shares of penalties and forfeitures recovered before any Court or Justice, and payable for the use of His Majesty or the Colony, shall be paid to the Stipendiary Justice of the district.

Payment of
fees, etc., by
Officers to
Justice.

15. If any person pays, by virtue of this Ordinance, to any Police Officer any penalty, fine, fee or sum of money, such Officer shall forthwith pay the same to the Stipendiary Justice for the district in which the information or complaint was laid or made. If any person committed to prison by virtue of this Ordinance upon any order by reason of the non-payment of any penalty, fee or sum of money, pays the same and any costs, charges or expenses to the Keeper, the Keeper shall forthwith pay the same to the Stipendiary Justice for the district or county in which the information or complaint was laid or made. All sums so received by the Stipendiary Justice shall forthwith be paid by him to the

party to whom the same are to be paid according to the directions of the law or Ordinance on which the information or complaint was framed; or if such law or Ordinance contains no directions for payment thereof, into the Treasury, and in case such sums as aforesaid are not paid to such Justice by the person aforesaid, the said Justice may proceed for the recovery of the said sums in manner herein provided.

16. If any Justice other than a Stipendiary Justice, or if any Clerk or Police Officer or other person having received any such fee, or having levied or recovered any penalty or forfeiture, shall neglect to pay the same forthwith to the Stipendiary Justice of the district, such neglect shall be deemed an offence against this Ordinance, and in addition to the penalties for such offence the money so received may be sued for by the Stipendiary Justice in the Supreme Court; and the plaintiff in such action, if successful, shall be entitled to his costs as between solicitor and client, although the sum recovered be within the jurisdiction of an inferior Court of Civil Jurisdiction.

Neglect to pay fees, etc., recovered to Justice.

17. Every Stipendiary Justice shall keep a true account of all fees, penalties and forfeitures, and parts of penalties and forfeitures taken, recovered, levied, or received by him; and shall at such times during the year as the Governor may appoint, transmit to the Receiver-General a transcript of such account.

Accounts.

18. Every Stipendiary Justice shall at such time as the Governor may direct, pay the amount of all such fees, penalties, and forfeitures, or parts of penalties and forfeitures, to the Receiver-General, and if he shall neglect so to do he shall be deemed to have committed an offence against this Ordinance, and on Summary conviction thereof shall be fined any sum not exceeding Ten Pounds, and in default of payment shall be imprisoned either with or without hard labour for any term not exceeding six months: Provided that where he has fraudulently misappropriated such moneys he shall be deemed to have embezzled the same and may be indicted accordingly.

Payment of fees to Receiver-General.

19. Every Stipendiary Justice shall keep or cause to be kept a record of all informations, complaints and charges brought in his district distinguishing the nature thereof, and the mode in which, and the name or names of the Justice or Justices by whom the same shall have been disposed of.

Record of cases.

Such record when signed by the Stipendiary Justice keeping the same shall be conclusive evidence of the several matters and things therein set forth and contained.

Exemption
from Jury.

20. Every Stipendiary Justice or Clerk so long as he shall hold such office shall be exempted from serving as a Juror in any Court of Justice.

Offences on
Vessels within
the waters of
the Colony.

21. Where any summary conviction offence shall be committed in or upon any vessel within any of the waters of this Colony, the same may be dealt with and determined either by the Stipendiary Justice of the district within which any such vessel shall then be, or of the district within which such vessel shall first arrive after the commission of such offence.

Interpreters.

22. The Clerks shall, if competent in the opinion of the Stipendiary Justice, act as Interpreters, but whenever the Governor shall think fit he may appoint Interpreters to be attached to the Courts of the various districts.

Public Officers
may conduct
certain cases.

23. It shall be lawful for the Head of any department of the Government or any clerk of such department authorized in writing by the Head of the department, or any Warden, Supervisor, or Assistant Supervisor, the Protector, Sub-Protector or any Inspector of Immigrants, or any Sanitary Inspector or Assistant Sanitary Inspector, or any commissioned or non-commissioned Police Officer to conduct any proceedings in which he or any Police constable or other person in the service of the Police department is a complainant before any Court.

Pending cases.

24. Unless the contrary is expressly provided by any Ordinance relating to such proceedings, the provisions of this Ordinance shall extend and apply to all proceedings which may be taken after the commencement of this Ordinance in respect of summary conviction offences, whether such offences are constituted or committed before, or at the time of, or after the commencement of this Ordinance.

Vide No. 276
as to use of
stamps and
forms of infor-
mation and
summons.

Mode of insti-
tuting proceed-
ings.
Schedule III.
Form 1.
Form 2.

25. Every proceeding in the Court for the obtaining of an order against any person in respect of a summary conviction offence shall be instituted by a complaint made before a Justice.

PART II.

INSTITUTION OF PROCEEDINGS.

Making of Complaint.

26. It shall be lawful for any person to make a complaint against any person committing a summary conviction offence, unless it appears from the Ordinance on which the complaint is founded that any complaint for such offence shall be made only by a particular person or class of persons.

General right of making complaint.

27. In every case where no time is specially limited for making a complaint for a summary conviction offence in the Ordinance relating to such offence, such complaint shall be made within three months from the time when the matter of such complaint arose, and not after.

Limitation of period for making complaint.

28.—(1.) It shall not be necessary that any complaint shall be in writing, unless it is required to be so by the Ordinance on which it is founded, or by some other Ordinance: Provided that, if a complaint is not made in writing, the Clerk shall reduce it into writing.

Form and requisites of complaint.

(2.) Subject to the provisions of Section 34 every complaint may, unless some Ordinance otherwise requires, be made without any oath being made of the truth thereof.

(3.) Every such complaint may be made by the complainant in person, or by his counsel or solicitor, or by any person authorized in writing in that behalf.

(4.) Every such complaint shall be for one offence only, but such complaint shall not be avoided by describing the offence or any material fact relating thereto in alternative words according to the language of the statute constituting such offence.

(5.) The description of any offence in the words of the Ordinance creating the offence, or in similar words, with a specification, so far as may be practicable, of the time and place when and where the offence was committed, shall be sufficient in law.

29. Any exception, exemption, proviso, condition, excuse or qualification, whether it does or does not, in any Ordinance creating an offence, accompany in the same section the description of the offence may be proved by the defendant, but need not be specified or negatived in the complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.

Rule as to statement of exception, etc.

SEARCH WARRANTS.

When search warrant may be issued and proceedings thereunder.

30.—(1.) Any Justice who is satisfied by proof upon oath, that there is reasonable ground for believing that there is, in any building, ship, vessel, carriage, box, receptacle or place,—

- (a.) Anything upon or in respect of which any summary conviction offence has been or is suspected to have been committed for which according to any statute for the time being in force the offender may be arrested without warrant;
- (b.) Anything which there is reasonable ground for believing will afford evidence as to the commission of any such offence; or
- (c.) Anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence against the person punishable on summary conviction for which, according to any Ordinance for the time being in force, the offender may be arrested without warrant,

Schedule III.
Form 58.

may at any time issue a warrant under his hand authorising some Police Officer named therein to search such building, ship, vessel, carriage, box, receptacle, or place for any such thing, and to seize and carry it before the Justice issuing the warrant or some other Justice, to be by him dealt with according to law.

(2.) Any search warrant may be issued and executed at any time, and may be issued and executed on a Sunday.

(3.) When any such thing is seized and brought before any Justice, he may detain or cause it to be detained, taking reasonable care that it is preserved till the conclusion of the case; and if any appeal is made, he may order it further to be detained for the purpose of or pending an appeal. If no appeal is made the Justice shall direct such thing to be restored to the person from whom it was taken, except in the cases hereinafter mentioned unless he is authorized or required by law to dispose of it otherwise.

(4.) If, under any such warrant, there is brought before any Justice any forged banknote, banknote paper or instrument, or any thing the possession of which, in the absence of lawful excuse, is an indictable offence according to any

Ordinance for the time being in force, the Justice may direct such thing to be detained for production in evidence or to be otherwise dealt with as the case may require.

(5.) If, under any such warrant, there is brought before any Justice any counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an offence according to any Ordinance for the time being in force, every such thing shall be delivered up to the Attorney-General and Public Prosecutor or to any person authorized by him to receive the same, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

(6.) If the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and protection as are given by any Ordinance for the time being in force to any person lawfully authorized to search for any such thing, and the thing itself shall be disposed of in the same manner as directed by any such Ordinance or, in default of such direction, as the Attorney-General and Public Prosecutor may direct.

ENFORCING APPEARANCE OF DEFENDANT.

31.—(1.) In every case where a complaint is made before a Justice that any person has committed, or is suspected to have committed, any summary conviction offence within the jurisdiction of such Justice, it shall be lawful for such Justice to issue his summons directed to such person, stating concisely the substance of such complaint, and requiring him to appear at a certain time, being not less than forty-eight hours after service of such summons, and at a certain place, before the Court of such Justice to answer the said complaint, and to be further dealt with according to law : Provided that the Court may, if it thinks fit, with the consent of parties, hear and determine a complaint notwithstanding that the said period of forty-eight hours may not have elapsed.

Issue of
summons to
defendant.
Schedule III.
Form 3.

Provided also that the Court may if it thinks fit, issue a summons directing a defendant to appear forthwith in cases where an affidavit is made by the complainant that such defendant is likely to leave the Island within forty-eight hours.

(2.) Nothing herein contained shall oblige any Justice to issue any such summons in any case where the application for an order may by law be made *ex parte*.

Service of
summons on
defendant, and
proof thereof.

32.—(1.) Every such summons shall be served by a Police Officer upon the defendant either by delivering a copy of it to him personally, or, if he cannot be found, by leaving a copy of it with some person for him at his usual or last known place of abode.

(2.) The police officer by whom the summons is served shall attend at the time and place specified therein, in order, if necessary, to prove the service: Provided that the Court may, in its discretion, receive proof of such service by affidavit in the manner hereinafter mentioned.

Hearing *ex
parte* or issue
of warrant on
nonappearance
of defendant.

33. If the defendant does not appear before the Court at the time and place mentioned in the summons, then, after proof upon oath, to the satisfaction of the Court, that the summons was duly served or that the defendant wilfully avoids service, the Court may in its discretion, either—

- (a.) Unless the Ordinance on which the complaint is founded otherwise directs, proceed *ex parte* to the hearing of the complaint, and adjudicate thereon as fully and effectually to all intents and purposes as if the defendant had personally appeared before it in obedience to the summons; or
- (b.) Adjourn such hearing to some future day; or
- (c.) Upon oath being made by or on behalf of the complainant, substantiating the matter of the complaint to the satisfaction of the Court, issue a warrant to apprehend the person so summoned or avoiding service, and to bring him before the Court to answer the said complaint, and to be further dealt with according to law.

Schedule III.
Form 4.

Issue of
warrant for
defendant in
first instance.
Schedule III.
Form 5.
Form 24.

34. Upon a complaint, in writing, being made before a Justice for any summary conviction offence, the Justice may, upon oath being made before him substantiating the matter of such complaint to his satisfaction, instead of issuing a summons, issue in the first instance a warrant to apprehend the person against whom such complaint has been made and to bring him before the Court of such Justice to answer the said complaint, and to be further dealt with according to law.

PART III.

WITNESSES.

Enforcing attendance of Witnesses.

35. If, either before or on the hearing of any complaint, it appears to the Justice on the statement of the complainant or of the defendant or otherwise, that any person is likely to give material evidence for the complainant or for the defendant, the Justice may issue a summons for such person, requiring him to attend at a time and place to be mentioned therein, before the Court of such Justice to give evidence respecting the case, and to bring with him any specified documents or things and any other documents or things relating thereto which may be in his possession, or power, or under his control.

Issue of
summons for
witness.

Schedule III.
Form 6.

36.—(1.) Every such summons shall be served by a Police Officer upon the person to whom it is directed, either by delivering a copy of it to him personally, or if such person cannot be met with, by leaving a copy of it with some person for him at his usual or last known place of abode.

Service of
summons on
witness.

(2.) The Police Officer by whom the summons is served shall attend at the time and place specified therein, in order if necessary, to prove the service: Provided that the Court may, in its discretion, receive proof of such service by affidavit.

37. If the person to whom any such summons is directed does not attend before the Court at the time and place mentioned therein, and no reasonable excuse is offered for such non-attendance, then after proof upon oath, to the satisfaction of the Court, that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, the Court on being satisfied that he is likely to give material evidence may issue a warrant to apprehend such person, and to bring him, at a time and place to be mentioned in the warrant, before the Court in order to testify as aforesaid.

Warrant for
witness after
summons.

Schedule III.
Form 7.

38. If the Justice is satisfied in the first instance by proof upon oath, that any person likely to give material evidence, either for the complainant or for the defendant, will not attend to give evidence without being compelled so to do, then, instead of issuing a summons, he may issue a warrant in the first instance for the apprehension of such person.

Issue of
warrant for
witness in
first instance.

Schedule III.
Form 8.

Mode of dealing with witness arrested under warrant.

39.—(1.) Every witness arrested under a warrant issued in the first instance shall, if the hearing of the case for which his evidence is required is appointed for a time which is more than twenty-four hours after the arrest, be taken before a Justice, and the Justice may, on his furnishing security by recognizance to the satisfaction of the Justice for his appearance at such hearing, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained for production at such hearing.

(2.) A witness arrested or detained under this Section shall not be kept in the same room or place as the defendant, if the defendant is in custody.

Non-attendance of witness on adjourned hearing.

40. Every witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which such hearing or further hearing is so adjourned, shall be bound to attend at such time and place, and, in default of so doing, may be dealt with in the same manner as if he had failed to attend before the Court in obedience to a summons to attend and give evidence.

Refractory Witnesses.

Witness refusing to be sworn, etc.

41.—(1.) Where any person, attending either in obedience to a summons, or by virtue of a warrant, or being present in Court and being verbally required by the Court to give evidence in any case—

- (a.) Refuses to be sworn as a witness; or
- (b.) Having been so sworn, refuses to answer any question put to him by the sanction of the Court; or
- (c.) Refuses or neglects to produce any documents which he is required by the Court to produce;

Schedule III
Form 9.

without in any such case offering any sufficient excuse for such refusal or neglect; the Court may, if it thinks fit, adjourn the hearing of the case for any period not exceeding eight days, and may in the meantime, by warrant, commit such person to prison, unless he sooner consents to do what is so required of him.

(2.) If such person, upon being brought before the Court at or before such adjourned hearing, again refuses to do what is so required of him, the Court may, if it thinks fit, again adjourn the hearing of the case, and commit him for the like period, and so again from time to time until such person consents to do what is so required of him.

(3.) Nothing herein contained shall affect the liability of any such person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the Court from disposing of the case in the meantime, according to any other sufficient evidence taken by it.

PART IV.

HEARING AND ORDER.

Hearing of Complaint.

42.—(1.) On the day and at the place mentioned in the summons, or on the day and at the place on and at which the defendant is brought before the Court under a warrant, as the case may be, the case with respect to which the complaint has been made shall be called for hearing in the Court. Time and place of hearing.

(2.) The room or place in which the Court is held for the purposes of such hearing shall be deemed an open Court to which the public may have access, so far as the same can conveniently contain them; Public to have access.

Provided always that the Justice may on special grounds of public policy, decency or expediency, in his discretion exclude the public at any stage of the hearing; Public may be excluded.

Provided that he shall record in every such case at the time on the proceedings the grounds on which such order has been made.

43. Both the complainant and the defendant shall be entitled to conduct their respective cases in person or by counsel or solicitor, and any person may by leave of the Justice assist his son, daughter, father, mother, brother, sister or wife or any person in his permanent employment as a servant, either domestic or in husbandry, in conducting his case. Mode of conducting case.

44. If, when the case is called, the defendant appears voluntarily in obedience to the summons or is brought before the Court under a warrant, and the complainant having had due notice of the time and place of hearing (which shall be proved to the satisfaction of the Court) does not appear in person or by counsel or solicitor, the Court shall dismiss the complaint, unless the Court, having received a reasonable excuse for the non-appearance of the complainant, or for other sufficient reason, thinks fit to adjourn the hearing of the same to some future day, upon such terms as the Court may think just. Non-appearance of complainant.

Non-appearance of defendant.

45.—(1.) If, when the case is called, the defendant does not appear, the Court may, if the case comes within the provisions of Section 33 hereof proceed as therein directed.

(2.) If service of the summons is not proved to the satisfaction of the Court, or if a warrant is issued for the apprehension of the defendant, the Court may adjourn the hearing of the case to some future day, in order that proper service may be effected, or until the defendant is apprehended, as the case may be.

(3.) If the defendant is afterwards apprehended on a warrant as aforesaid, he shall be brought before the Justice, who shall thereupon commit him, by warrant, to prison or to such other safe custody as he may think fit, and order him to be brought at a certain time and place before the Court; and of such time and place the complainant shall by direction of the Justice be served with due notice.

Non-appearance of both parties.

46. If, when the case is called, neither the complainant nor the defendant appears, the Court shall make such order as the justice of the case requires.

Appearance of both parties.

47. If, when the case is called, both the complainant and the defendant appear, the Court shall proceed to hear and determine the complaint.

Manner of hearing.

48.—(1.) At the commencement of the hearing, the Court shall state or cause to be stated to the defendant the substance of the complaint, and shall ask him whether he is guilty or not guilty.

(2.) If the defendant says that he is guilty, and shows no cause, or no sufficient cause, why an order should not be made against him, the Court shall make such order against him as the justice of the case requires.

(3.) If the defendant says that he is not guilty, the witnesses on both sides shall be called, and so far as in the opinion of the Court is practicable and convenient shall be placed out of the Court and out of hearing, under the charge of the proper officer of the Court or of some other person appointed by the Court for that purpose.

(4.) The Court shall then proceed to hear the complainant and such witnesses as he may examine, and such other evidence as he may adduce, in support of his complaint, and also to hear the defendant and such witnesses as he may examine, and such other evidence as he may adduce, in his

defence, and also, if the Court thinks fit, to hear such witnesses as the complainant may examine in reply, if the defendant has examined any witnesses or given any evidence.

(5.) The defendant and the wife or husband of the defendant, as the case may be, shall be competent but not compellable witnesses on the hearing of any complaint for a summary conviction offence, and may be cross-examined by the complainant or prosecutor, and if tendering themselves as witnesses shall be liable to the same penalties for perjury as any witness is by law liable to. Evidence of defendant, and of husband and wife.

(6.) The Justice shall, in every case, take or cause to be taken notes in writing of the evidence, or of so much thereof as he considers is material, in a book to be kept for that purpose, and such book shall be signed by the Justice at the conclusion of each day's proceeding. Notes by Justice or clerk.

49. Where cross-complaints are made by the same parties with reference to the same matter, the Court may, if it thinks fit, hear and determine such complaints at one and the same time. Cross complaints.

50. The complainant, his counsel or solicitor, shall be entitled to address the Court at the commencement of his case; the defendant, his counsel or solicitor, shall be entitled to address the Court at the commencement or the conclusion of his case, as he or they may think fit; and if any witnesses for the defence have been examined or any evidence given, the Justice may in his discretion allow the complainant, his counsel or solicitor to reply on the conclusion of the case. Addresses.

Adjournment of Hearing.

51.—(1.) At any time before or during the hearing of a complaint, it shall be lawful for the Court, in its discretion, to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or his or their respective counsel or solicitor. Power of adjournment and proceedings thereon.

(2.) Upon any such adjournment, the Court may—

- (a.) Suffer the defendant to go at large; or
- (b.) Commit him to prison or to such other safe custody as it thinks fit; or Schedule III. Form 25.
- (c.) Discharge him upon his entering into a recognizance, with or without a surety or sureties, conditioned for his appearance at the time and place to which such hearing or further hearing is so adjourned. Form 33. Form 34.

Form 18.

(3.) If, at the time and place to which such hearing or further hearing is so adjourned, either or both of the parties does or do not appear, the Court may proceed to such hearing or further hearing as if such party or parties was or were present; or, if the complainant does not appear, the Court may dismiss the complaint.

Transfer of Case.

Transfer of case where cause of complaint has arisen out of jurisdiction of Court.

52.—(1.) If upon the hearing of any complaint, it appears that the cause of complaint arose out of the limits of the jurisdiction of the Court before which such complaint has been made, the Court may direct the case to be transferred to the Court having jurisdiction in the Colony where the cause of complaint arose.

Schedule III.
Form 59.

(2.) If the defendant is in custody and the Justice directing such transfer thinks it expedient that such custody should be continued, or if he is not in custody, that he should be placed in such custody, the Justice shall direct the defendant to be taken by a Police Officer before the Justice having jurisdiction where the cause of complaint arose, and shall give a warrant for that purpose to such Police Officer, and shall deliver to him the complaint and recognizance, if any, taken by such Justice under the provisions of this Ordinance, to be delivered to the Justice before whom the defendant is to be taken; and such complaint and recognizance, if any, shall be treated to all intents and purposes as if they had been taken by such last-mentioned Justice.

(3.) If the defendant is not continued or placed in custody as aforesaid, the Justice shall inform him that he has directed the transfer of the case as aforesaid, and thereupon the provisions of the last preceding sub-section of this section, respecting the transmission and use of the documents in the case, shall apply.

Power to reduce charge from indictable to summary conviction offence.

53. Where, upon the holding of any preliminary inquiry on a charge of an indictable offence, the Justice is of opinion that the evidence establishes, or appears likely to establish, the commission of a summary conviction offence of a like kind to the offence charged, or an abetment of, or an attempt or incitement to commit, such summary conviction offence, the Justice may if he thinks fit and unless the Attorney-General and Public Prosecutor otherwise directs, inform the accused person accordingly, and all further proceedings in

the case thereafter shall be the same as if a complaint had been made against such person for such latter offence or abetment, attempt or incitement.

54. If, upon the hearing of any complaint, it appears to the Court that the case ought to be tried as an indictable offence before the Supreme Court, or if the Attorney-General and Public Prosecutor intimates to the Court his opinion in writing to that effect, all further proceedings in the case as for a summary conviction offence shall be stayed, and depositions shall be taken, and the case shall in all other respects be dealt with, as if the charge had been originally one for an indictable offence.

Procedure where charge appears to be one proper for indictment.

Making of Order.

55.—(1.) Upon the conclusion of the hearing, the Court shall, either at the same or at an adjourned sitting, give its decision on the case, by either dismissing the complaint or making such order as the justice of the case requires against the defendant.

Giving of decision upon conclusion of hearing.
Schedule III.
Form 18.

(2.) If the complaint is dismissed on the merits, the Court shall, upon being required by or on behalf of the defendant at any time within six months after such dismissal, make a formal order of dismissal and give to the defendant a certificate thereof; and such certificate shall, upon production, without further proof, be a bar to any subsequent complaint for the same matter against the defendant.

Form 54.

(3.) If an order is made against the defendant, a concise minute or memorandum thereof shall be forthwith entered in a book to be kept for that purpose; and, if necessary, an order in proper form may be drawn up at any time thereafter.

Provided that any defendant who desires to have the order in his case formally drawn up may, at any time within five days from the date of adjudication require the Justice to draw up formally such order; and thereupon it shall be the duty of the Justice, within two days from the date of his being so required, to draw up formally such order, and the defendant shall be entitled to have a copy thereof, without any fee being charged for the same.

56. Where by any Ordinance the Court is empowered to impose a penalty for a summary conviction offence, it may, in the absence of express provision to the contrary in the same or any other Ordinance, order a defendant who is con-

General power of awarding imprisonment in default of payment of penalty.

Schedule III.
Form 10.
Form 11.
Form 14.

victed of such offence, in default of payment of the sum of money adjudged to be paid by the order, either forthwith or at the time specified in the order, as the case may be, to be imprisoned, with or without hard labour for any term not exceeding six calendar months.

Period of
Imprisonment.

57. Subject in every case to the provisions of the Ordinance on which the order is founded, the period of imprisonment, whether with or without hard labour, which is imposed by the Court in respect of the non-payment of any sum of money adjudged to be paid by an order shall be such period as, in the opinion of the Court, will satisfy the justice of the case but shall not exceed six calendar months.

Cumulative
term of
imprisonment.
Schedule III.
Form 62.

Where the defendant is adjudged to be imprisoned, and he shall at the time be under commitment upon another conviction or order or other convictions or orders it shall be lawful for the Justice to direct the imprisonment for the subsequent offence to commence at the expiration of the previous term or terms.

Offence
charged—
Attempt
proved.

58. Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the defendant may be convicted of such attempt and punished accordingly: Provided that, after conviction for such attempt, the defendant shall not be liable to be prosecuted again for the same offence which he was charged with committing.

Attempt
charged—full
offence proved.

59. Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of the attempt, and punished accordingly: Provided that, after conviction for such attempt, the defendant shall not be liable to be prosecuted again for the offence which he was charged with attempting to commit.

Full offence
charged—part
proved.

60. Every complaint shall be deemed divisible; and if the commission of the offence charged, as described in the Ordinance creating the offence or as charged in the complaint, includes the commission of any other offence, the defendant may be convicted of any offence so included which is proved, although the whole complaint charged is not proved, or he may be convicted of an attempt to commit any offence so included.

61.—(1.) Where embezzlement, or the fraudulent application or disposition of anything, is charged, and the evidence establishes the commission of larceny of any kind, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of such larceny, and punished accordingly. Embezzlement charged, larceny proved, and vice versa.

(2.) Where larceny of any kind is charged, and the evidence establishes the commission of embezzlement or the fraudulent application or disposition of anything, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of such embezzlement or fraudulent application or disposition, and punished accordingly.

(3.) No person so convicted of embezzlement, fraudulent application or disposition, or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition, or embezzlement upon the same facts.

62. If, upon the hearing of any complaint, it appears to the Court that, although the complaint is proved the offence was, under the particular circumstances of the case, of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment,— Power to discharge defendant without punishment.

(1.) The Court may, without proceeding to a conviction, dismiss the complaint and may, if it thinks fit, order the defendant to pay such damages, not exceeding Two Pounds, and such costs of the proceedings, or either of them, as it thinks reasonable ; and such damages shall be payable to such person as the Court may direct ; or Schedule III. Form 19.

(2.) The Court may, upon convicting the defendant, discharge him conditionally on his giving security, with or without a surety or sureties, to appear for sentence when called upon or to be of good behaviour, and either without payment of damages and costs or subject to the payment of such damages and costs, or either of them, as the Court thinks reasonable. Form 13.

Costs and Compensation.

63.—(1.) In every case where the complaint is dismissed, the Court may order that the complainant shall pay to the Order as to costs and compensation.

defendant such sum for costs as to the Court may seem just and reasonable, and, if the Court is of opinion that the complaint was frivolous or vexatious, it may also order the complainant to pay to the defendant a reasonable sum, not exceeding five pounds, as compensation for the trouble and expense to which the defendant may have been put by reason of such complaint, in addition to his costs. Provided that the acceptance of any such order for compensation by the defendant shall be a bar to any subsequent civil proceedings for false imprisonment or malicious prosecution by him against the complainant, and provided also that the defendant be at liberty to refuse to accept any such order for compensation.

(2.) In every case where an order is made against the defendant, the Court may order that the defendant shall pay to the complainant such costs, and shall also, subject to the provisions of any Ordinance in that behalf, pay to the complainant or any other person such compensation, as to the Court may seem just and reasonable: Provided that this section shall not affect the procedure of the Court under any Ordinance making express provision with respect to such compensation.

(3.) Any such order for payment of costs made against a defendant may include any costs of and attendant upon his apprehension.

(4.) No such order for payment of costs shall include any fees to counsel or solicitor.

Schedule III.
Form 32.

(5.) Any sum so allowed for costs, or for costs and compensation, shall in every case be specified in the order of dismissal or order, as the case may be, and payment thereof may be enforced in the same manner as payment of a penalty.

Liability of
guardian of
convicted child
for costs, etc.

64. The guardian of any child who is convicted of a summary conviction offence may be ordered by the Court to pay costs, or costs and compensation, to the complainant; and if such costs, or costs and compensation, are not paid by such guardian within the time fixed by the Court, a warrant of distress may be issued against him for the recovery of the same.

PART V.

ENFORCEMENT OF ORDER.

65.—(1.) The Court by whose conviction or order any sum of money is adjudged to be paid may, if it thinks fit, do all or any of the following things, namely:—

Mode of payment of money adjudged to be paid by order.

- (a.) Allow time for payment of the said sum ; or
- (b.) Direct payment of the said sum to be made by instalments ; or
- (c.) Direct that the person liable to pay the said sum shall be at liberty to give, to the satisfaction of the Court, security, either with or without surety or sureties, for the payment of the said sum or of any instalment thereof.

(2.) Where a sum of money is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid.

Provided that the Court may accept a deposit of money from or on account of any person in lieu of a surety or sureties, and, on any breach of the condition of his recognition, such deposit shall be forfeited and shall be dealt with in the manner hereinafter mentioned.

Court may accept deposit of money in lieu of surety.

Warrant of Distress.

66.—(1.) Any sum of money adjudged to be paid by an order shall, if the Ordinance or enactment on which the order is founded so directs, but subject to the provisions hereafter in this section contained, and may, in the discretion of the Court, in other cases, be levied upon the movable property of the defendant by distress and sale thereof.

Issue of distress warrant in certain cases.

(2.) In any such case the Court shall, but subject as aforesaid, or may, as the case may be, issue its warrant of distress for the purpose of levying the same, and such warrant shall be in writing and shall be signed by the Justice.

Schedule III.
Form 12.
Form 15.
Form 20.
Form 21.

(3.) If it appears to the Court, when application is made to it to issue any such warrant, that the defendant has no movable property whereon to levy the distress, or that, in the event of a warrant of distress being issued, his movable property will be insufficient to satisfy the sum of money adjudged to be paid by the order, or that the levy of the distress will be more injurious to him or his family than

imprisonment, the Court may, if it thinks fit, instead of issuing such warrant of distress, order the defendant, on non-payment of the said sum, to be imprisoned, with or without hard labour, for any term not exceeding the term hereinbefore prescribed.

(4.) The wearing apparel and bedding of a person and his family, and, to the value of three pounds, the tools and implements of his trade, shall not be taken under a warrant of distress issued by the Court.

Commitment
or security un-
til return made
to distress
warrant.

Schedule III.
Form 29.

67. Where a warrant of distress is issued against the defendant, the Court may either suffer the defendant to go at large or, by a warrant in that behalf, order him to be kept and detained in safe custody until return has been made to the warrant, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the Court, for his appearance before the Court at the time and place appointed for the return of the warrant.

Imprisonment
in default of
distress.

Schedule III.

Form 55.

Form 30.

68. Where a warrant of distress is issued against the defendant, and a return is made by the Police Officer charged with the execution of the warrant to the effect that no sufficient movable property of the defendant can be found whereon to levy the distress, the Court may order the defendant, on non-payment of the sum of money adjudged to be paid by the order and all costs and charges of the distress and of the commitment, to be imprisoned, with or without hard labour, for any term not exceeding the term hereinbefore prescribed.

General provi-
sions with
respect to dis-
tress warrants.

69. The following provisions shall have effect with respect to the execution of warrants of distress issued by the Court, namely :—

- (1.) A warrant of distress shall be executed by or under the direction of a Police or other Constable.
- (2.) If the Constable charged with the execution of the warrant is prevented from executing the same by the fastening of doors or otherwise, the Justice may, by writing under his hand endorsed on the warrant, authorize him to use such force as may be necessary to enable him to execute the warrant.
- (3.) Except so far as the person upon whose movable property the distress is levied otherwise consents in writing, the distress shall be sold at public

auction, and three days at least shall intervene between the making of the distress and the sale, but where consent in writing is so given as aforesaid the sale may be in accordance with such consent.

- (4.) Subject as aforesaid, the distress shall be sold within the time fixed by the warrant, and, if no time is so fixed, then within the period of fourteen days from the date of the making of the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the distress, are sooner paid.
- (5.) If any person charged with the execution of a warrant of distress wilfully retains from the produce of any property sold to satisfy the distress, or otherwise exacts, any greater costs or charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall, on being convicted thereof, be liable to a penalty not exceeding Ten Pounds: Provided that nothing herein contained shall affect the liability of any such person to be prosecuted and punished for extortion.
- (6.) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall, as soon as practicable, be delivered by the Police Officer charged with the execution of the warrant to the Justice; and it shall be lawful for the person upon whose movable property the distress was levied, at any time within one month after the making of the distress, to inspect such account, without payment of any fee or reward, at any time during office hours, and to take a copy of such account. Schedule III.
Form 56.
- (7.) A Police Officer charged with the execution of a warrant of distress shall sell the distress or cause the same to be sold, and may deduct out of the amount realized by such sale all costs and charges actually incurred in effecting such sale and shall pay to the Justice, or to some person specified by him the remainder of such amount, in order that the same may be applied in payment of the sum for which the warrant was

issued and of the proper costs and charges of the execution of the warrant, and that the overplus, if any, may be rendered to the person upon whose movable property the distress was levied.

Payment of
amount of dis-
tress warrant.

70. Where any person against whom a warrant of distress is issued pays or tenders to the Police Officer having the execution of the same the sum or sums in such warrant mentioned or produces to him the receipt for the same of the Clerk of the Court, and also pays the amount of the costs and charges of such distress up to the time of such payment or tender, the Police Officer shall cease to execute the warrant.

Commitment of Defendant, &c.

Power to com-
mit defendant
in certain cases.

71. In every case where an order is made against any person for the payment of a sum of money, and such person is liable to be imprisoned, or imprisoned and kept to hard labour for a certain term unless such sum shall be sooner paid, if such person does not pay the same, either forthwith or at the time specified in such order for the payment of the same, as the case may be, it shall be lawful for the Court to issue its warrant of commitment, under the hand of the Justice, requiring the Police Officer to whom the same is directed to take and convey such person to prison and there deliver him to the Keeper, and requiring the Keeper to receive such person into the prison, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as may be directed and appointed by the warrant of commitment, unless the sum of money adjudged to be paid by the order, and also all other costs, charges, and expenses, shall be sooner paid.

Schedule III.
Form 26.

Payment of
penalty to
constable or
keeper.

72. In all cases where any person against whom a warrant of commitment for non-payment of a penalty or any sum of money only is issued pays or tenders to the constable having the execution of the same the sum or sums in such warrant mentioned together with the amount of the expenses of such warrant up to the time of such payment or tender, the constable shall cease to execute such warrant. In all cases in which any person is imprisoned for non-payment of any penalty or any sum of money he may pay or cause to be paid to the Keeper the sum in the warrant of commitment mentioned together with the amount of the costs charges and expenses (if any) therein also mentioned, and such

Keeper shall receive the same and shall thereupon discharge such person if he be in his custody for no other matter.

73. Where application is made to the Court to issue a warrant for committing a person to prison for non-payment of any sum of money adjudged to be paid by an order, the Court may, if it deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the Court may seem just.

Power to postpone issue of warrant of commitment.

74. Where any person is brought by a Police Officer to any prison to be imprisoned by virtue of a warrant of commitment, the Police Officer shall indorse on such warrant the day on which such person was arrested by virtue thereof and the imprisonment shall be computed from such day and inclusive thereof.

Commencement of imprisonment.

75. Where any person has been committed to prison by the Court for default in finding a surety or sureties, the Court may, on application made to it by such person or by some person acting on his behalf, inquire into the case of such person, and if, upon new evidence produced to the Court or proof of a change of circumstances, the Court thinks, having regard to all the circumstances of the case, that it is just so to do, the Court may reduce the amount for which it was ordered that the surety or sureties should be bound, or dispense with the surety or sureties, or otherwise deal with the case as the Court may think just.

Varying or discharging of order for sureties.

76. Where any person has been committed to prison by the Court for non-payment of any sum of money adjudged to be paid by an order, such person may pay or cause to be paid to the Keeper the sum mentioned in the warrant of commitment together with the amount of the costs, charges, and expenses, if any, also mentioned therein, and the Keeper shall receive the same and thereupon discharge such person, unless he is in his custody for some other matter.

Right of person imprisoned in default to be released on paying sum, etc.

77. Where the defendant, having been convicted of the offence with which he was charged, has paid the sum of money adjudged to be paid by the order, or has been discharged therefrom by the Crown, or has undergone imprisonment for non-payment thereof or imprisonment adjudged in the first instance, or both, or has been discharged from his conviction in manner aforesaid, he shall be released from all other criminal proceedings for the same matter : Provided

Determination of liability of defendant on satisfaction of, or discharge from order.

that nothing in this section shall affect the further liability of any person in respect of any continuing or recurring offence.

Summary Order.

Summary
order to do
specific act.
Schedule III.
Form 16.

78.—(1.) Where a power is by any statute or Ordinance given to the Court of requiring any person to do or to abstain from doing any act or thing, other than the payment of money, or of requiring any act or thing to be done or left undone, other than the payment of money, and no mode is prescribed of enforcing such requisition, the Court may exercise such power by an order, and may annex to any such order any condition as to time or mode of action or otherwise which the Court may think just, and may suspend or rescind any such order on such undertaking being given, or such condition being performed, as the Court may think just, and generally may make such arrangements for carrying into effect such power as to the Court may seem fit.

(2.) Every person who makes default in complying with an order of the Court in relation to any matter arising under a statute, other than the payment of money, shall be punished in the manner prescribed by such statute, or, if no punishment is so prescribed, may, in the discretion of the Court, be ordered to pay a sum not exceeding One Pound for every day during which he is in default or to be imprisoned with or without hard labour, until he has remedied his default: Provided that a person shall not, for non-compliance with the requisition of the Court, whether made by one or more orders, to do or to abstain from doing any act or thing, be liable under this section to the payment of any sums amounting in the aggregate to more than twenty-five pounds or to imprisonment for any periods amounting in the aggregate to more than two months.

(3.) In making any such order as aforesaid, it shall be lawful for the Court to order that, in default of compliance with the order, the defendant shall pay to the complainant such sum as the Court may award as a fair compensation to him for such default, and to direct that, in default of the payment of such sum, the defendant shall be imprisoned for any term not exceeding the term hereinbefore prescribed in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

PART VI.

SUMMARY TRIAL OF INDICTABLE OFFENCES.

Summary Trial of Child.

79.—(1.) Where a child is charged before the Court with any indictable offence, other than homicide, the Court, if it thinks it expedient so to do, and if the guardian of the child so charged when informed by the Court of his right to have the child tried by a jury, does not object to the child being dealt with summarily, may deal summarily with the offence, and, in case of conviction, inflict the same description of punishment as might have been inflicted if the case had been tried on indictment: Provided that—

Summary trial
of child for
indictable
offence unless
objected to by
guardian.
Schedule III.
Form 43.
Form 44.

- (a.) Where a penalty is awarded, the amount shall not in any case exceed Two Pounds ;
- (b.) Where imprisonment is awarded, the term shall not in any case exceed three months ;
- (c.) When the child is a male, the Court may, either in addition to or in lieu of any other punishment, order the child to be whipped, or to be sent to a Reformatory or Industrial School, or other similar institution established by law, or to be both whipped and sent as aforesaid ;
- (d.) When the child is a female, the Court may, either in addition to or in lieu of any other punishment, order the child to be sent to a Reformatory or an Industrial School established by law.

(2.) For the purpose of a proceeding under this section the Court shall, at any time during the hearing of the case at which it becomes satisfied by the evidence that it is expedient to deal with the case summarily, cause the charge to be reduced into writing, (if this has not been already done), and read to the guardian of the child, and then address a question to such guardian to the following effect :—
“Do you desire the child to be tried by a jury, and object to the case being dealt with summarily by this Court?”
with a statement, if the Court thinks such statement desirable for the information of such guardian, of the meaning of the case being dealt with summarily, and of the sitting of the supreme Court at which the child will be tried, if tried by a jury.

Form 42.

(3.) Where the guardian of a child is not present when the child is charged with an indictable offence before the Court, the Court may, if it thinks it just so to do, remand the child for the purpose of causing notice to be served on such guardian, with a view of securing so far as may be practicable, his attendance at the hearing of the charge, or the Court may, if it thinks it expedient so to do, deal with the case summarily.

(4.) Nothing in this section shall render punishable for an indictable offence any child who is not, in the opinion of the Court before which he is charged, of or above the age of seven years and of sufficient capacity to commit crime.

Summary Trial of Adult.

Summary
conviction, or
plea of guilty,
of adult.

80.—(1.) Where a person who is an adult is charged before the Court with any indictable offence which is specified in the first column of the second schedule to this Ordinance, and is not comprised in the second column of the said schedule, and the Court, at any time during the hearing of the case, becomes satisfied that the evidence is sufficient to put the person charged on his trial for the said offence, and further is satisfied (either after such a remand as is provided by this Ordinance or otherwise) that the case is one which, having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, may properly be dealt with summarily and may be adequately punished by virtue of the powers of this Ordinance, then the Court shall cause the charge to be reduced into writing, (if this has not been already done), and read to the person charged, and shall then ask him whether he is guilty or not of the charge; and if such person says that he is guilty, the Court shall thereupon cause a plea of guilty to be entered, and adjudge him to be imprisoned, with or without hard labour, for any term not exceeding six months.

Schedule III.
Form 46.
Form 47.

(2.) The Court, before asking, in pursuance of this section, the person charged whether he is guilty or not, shall explain to him that he is not obliged to plead or answer, and that if he pleads guilty he will be dealt with summarily and that if he does not plead or answer, or pleads not guilty, he will be dealt with in the usual course; with a statement, if the Court thinks such statement desirable for the information of the person to whom it is addressed, of the meaning

of the case being dealt with summarily or in the usual course, and of the sitting of the Supreme Court at which he will be tried, if tried by a jury. The Court shall further state to such person to the effect that he is not obliged to say anything unless he desires so to do, but that whatever he says will be taken down in writing and may be given in evidence against him upon his trial.

(3.) If the person charged does not plead guilty, whatever he says in answer shall be taken down in writing and read over to him and signed by the Justice and kept with the depositions of the witnesses and transmitted with them in manner required by law, and afterwards upon the trial of the person charged may, if necessary, be given in evidence against him without further proof thereof, unless it is proved that the Justice purporting to have signed the same did not in fact sign the same.

81.—(1.) Where a person who is an adult is charged before the Court with any indictable offence specified in the second column of the Second Schedule to this Ordinance, the Court, if it thinks it expedient so to do, and if the person charged with the offence, when informed by the Court of his right to be tried by a jury, consents to be tried summarily, may summarily try the offence, and adjudge such person, if found guilty of the offence, either to pay a penalty not exceeding Twenty Pounds or to be imprisoned, with or without hard labour, for any term not exceeding six months.

Summary trial
with consent
of adult.

Schedule III.
Form 46.
Form 47.

(2.) For the purpose of a proceeding under this section, the Court shall, at any time during the hearing of the case at which it becomes satisfied by the evidence that it is expedient to deal with the case summarily, cause the charge to be reduced into writing, (if this has not been already done) and read to the person charged, and then address a question to him to the following effect:—"Do you desire to be tried by a jury, or do you consent to the case being tried summarily by this Court?" with a statement, if the Court thinks such statement desirable for the information of the person to whom the question is addressed, of the meaning of the case being tried summarily, and of the sitting of the Supreme Court at which he will be tried, if tried by a jury.

Summary Trials generally.

Power to
remand per-
son charged.

82.—(1.) Where a person is charged before the Court with an indictable offence with which the Court has or may have, under the circumstances mentioned in this Ordinance, power to deal summarily, the Court, without prejudice to any other power which it may possess, may, for the purpose of ascertaining whether it is expedient to deal with the case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged.

(2.) A person may be remanded under this section in like manner in all respects as a person accused of an indictable offence may be remanded.

General
provisions as
to dealing
summarily
with indictable
offences.

83. Where an indictable offence is, under the circumstances mentioned in this Ordinance, authorized to be dealt with summarily,—

- (1.) The procedure shall, until the Court assumes the power to deal with the offence summarily, be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the Court assumes the power to deal with such offence summarily, the procedure shall be the same, from and after that period, as if the offence were a summary conviction offence and not an indictable offence, and the provisions of this Ordinance shall apply accordingly: Provided that nothing herein contained shall be construed to prevent the Court from dealing thereafter with the offence as an indictable offence, if it thinks fit so to do;
- (2.) The evidence of any witness taken before the Court assumed the power to deal with the offence summarily need not be taken again, but every such witness shall, if the defendant so requires it, be recalled for the purpose of cross-examination;
- (3.) The conviction for any such offence shall be of the same effect as a conviction on a trial on indictment for the offence;
- (4.) Where the Court has assumed the power to deal with the offence summarily, and dismisses

the complaint on the merits, it shall, if required, deliver to the person charged, a copy, certified under the hand of the Justice, of the order of dismissal, and such dismissal shall be of the same effect as an acquittal on a trial on indictment for the offence ;

- (5.) The conviction shall contain a statement as to the plea of guilty of an adult, but it shall not be necessary to the validity or regularity of any conviction or committal in respect of an indictable offence under the provisions of this Ordinance that the same should contain any averment or statement of the consent of the person charged or his guardian to any offence being dealt with summarily by such Justice : Provided however that in every case in which such Stipendiary Justice so deals summarily with any offence by consent of the person charged, a note of such consent having been given, and of the person by whom the same has been given shall be taken by such Justice or his Clerk.

84. Nothing in the preceding Sections of this Ordinance shall be construed or deemed in any way to lessen or interfere with the discretion and summary powers of a Stipendiary Justice of the Peace conferred by any of the provisions of the Summary Convictions (Offences) Ordinance but it shall be lawful for the Attorney-General in the case of any charge of an indictable offence brought before a Stipendiary Justice at any time before the decision thereof by writing under his hand to require such Stipendiary Justice to adjourn such case or to deal with the same as one for trial before a Judge and Jury at the Criminal Sessions, and on receipt of such requisition the Stipendiary Justice shall deal with such case accordingly.

Attorney-General may require Justice to adjourn or deal specially with case.

85. A Stipendiary Justice shall any time before the decision thereof at the request of any Police Officer in charge of any prosecution adjourn the hearing of any charge involving an indictable offence punishable on summary conviction, in order that the Attorney-General may be consulted with a view of obtaining an Order as in the previous section mentioned to have the case committed for trial at the Criminal Sessions if a *prima facie* case is made out.

Justice to adjourn case on request of Police.

PART VII.

MISCELLANEOUS PROVISIONS.

Ownership of Property.

Mode of stating
ownership of
property of
partners, etc.

86.—(1.) Where, in any document in any proceeding under this Ordinance, it is necessary to state the ownership of any property whatsoever, whether movable or immovable, which belongs to or is in the possession of more than one person, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named and another or others, as the case may be.

(2.) Where in any such document, it is necessary to mention, for any purpose whatsoever, any partners or other joint owners or possessors, it shall be sufficient to describe them in manner aforesaid.

(3.) The provisions of this section shall be construed to extend to all joint stock companies and associations, societies and trustees, but property may be described as belonging to any joint stock company or association by its legal or registered title.

(4.) Where any property is in any such document described as being in any joint stock company, association or society by its registered title, proof of the registration of the company, association or society may at the discretion of the Court be required or dispensed with, and if the Court decides that such proof shall be given the further hearing shall be adjourned for the purpose on such terms as the Court may direct; or the Court may in its discretion amend the proceedings by substituting the name of some person or persons for the name of such society, company or association; and no appeal shall lie from the exercise of such discretion.

Mode of stating
ownership of
church, etc.

87. Where, in any document in any proceeding under this Ordinance, it is necessary to state the ownership of any church, chapel, or building set apart for religious worship or of anything belonging to or being in the same, it shall be sufficient to state that such church, chapel, or building, or such thing, is the property of any Clergyman, or Minister officiating therein or of the Churchwarden or Churchwardens of such church, chapel, or building, without its being necessary to name him or them.

88. Where in any document in any proceeding under this Ordinance it is necessary to state the ownership of any money or other property whatsoever in the charge, custody, or under the control of any public officer and which is alleged to have been stolen, embezzled or otherwise misappropriated or in respect of which any offence punishable on summary conviction is alleged to have been committed, it shall be sufficient to state such money or property to be the money or property of the Government: and where in any document in any proceeding under this Ordinance, it is necessary to state the ownership of any work or building made, erected or maintained, either wholly or in part, at the expense of the inhabitants of this Colony or of any city, town, or village thereof, or of anything belonging to or being in or used in relation to the same, or of anything provided for the use of the poor or of any public institution or establishment, or of any materials or tools provided or used for repairing any such work or building or any public road or highway, or of any other property whatsoever, whether movable or immovable, of such inhabitants as aforesaid, it shall be sufficient to state that such property is the property of the inhabitants of the Colony, or of the city, town, or village, as the case may be, without naming any of such inhabitants.

Mode of stating ownership of public property.

89.—(1.) Every married woman, whether married before or after the commencement of this Ordinance, shall have in her own name against all persons whatsoever, including her husband (subject as regards her husband to the proviso hereinafter contained) the same remedies and redress by way of criminal proceedings for the protection and security of her own separate property as if such property belonged to her as an unmarried woman.

Remedies of married woman against her husband and others in respect of property.

(2.) In any complaint or other proceeding under this section, it shall be sufficient to allege the property to which the complaint or other proceeding relates to be the property of the married woman: Provided that no proceeding shall be taken by any wife against her husband by virtue of this section, while they are living together, as to or concerning any property claimed by her, nor, while they are living apart, as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property has been wrongfully taken by the husband when leaving or deserting, or about to leave or desert, his wife.

Criminal
liability of wife
to husband.

90. A wife who does any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife would make the husband liable to criminal proceedings by the wife under the last preceding section, shall in like manner be liable to criminal proceedings by her husband.

Arrest.

Arrest of
offender in
certain cases.

91. Any person who is found committing any offence against the person or against property which is punishable on summary conviction may be taken into custody, without warrant, by any Police Officer, or may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his servant or any other person authorized by him, and shall in the latter case be delivered as soon as possible into the custody of any Police Officer to be dealt with according to law.

Procedure
where offender
is taken into
custody with-
out warrant.

92. A person taken into custody without warrant for a summary conviction offence shall be brought before a Justice as soon as practicable after he is so taken into custody, and if it is not or will not be practicable to bring him before a Justice within twenty-four hours after he is so taken into custody, any Police Officer in charge of any Police Station shall enquire into the case, and, except where the offence appears to such Police Officer to be of a serious nature, shall discharge the prisoner, upon his entering into a recognizance, with or without a surety or sureties, for a reasonable amount, to appear before the Court at the time and place specified in the recognizance.

Form and
requisites of
warrant of
apprehension.

93.—(1.) Every warrant of arrest issued under this Ordinance, or, unless the contrary is expressly provided, under any other Ordinance relating to summary conviction offences, shall bear the date of the day of issue, and shall be signed by the Justice by whom it is issued.

(2.) No such warrant shall be signed in blank.

(3.) No such warrant shall be issued without an information or other statement in writing and upon oath.

(4.) Every such warrant shall be directed to all Police Officers.

(5.) Every such warrant may be executed by any Police Officer.

(6.) Every such warrant shall state concisely the offence or matter for which it is issued, and shall name or otherwise describe the person to be arrested, and it shall order the Police Officer to whom it is directed to apprehend such person, and bring him before the Court to answer the said information or statement, or to testify, or otherwise, according to the circumstances of the case, and to be further dealt with according to law.

(7.) It shall not be necessary to make any such warrant returnable at any particular time, but the same shall remain in force until it is executed.

94.—(1.) Every such warrant of apprehension may be issued and executed on a Sunday. Execution of warrant.

(2.) The Police Officer executing any such warrant must, before making the arrest, inform the person to be arrested that there is a warrant for his apprehension, unless there is reasonable cause for abstaining from giving such information on the ground that it is likely to occasion escape, resistance, or rescue.

(3.) Subject to the provision hereafter in this section contained, it shall not be necessary for the Police Officer executing any such warrant to have the same in his possession; but if he has it, he must, upon request, show it to the person arrested or to be arrested.

(4.) Every person arrested on any such warrant shall be brought before the Court as soon as is practicable after he is so arrested.

(5.) Any Police Officer authorized to execute any such warrant may, for the purpose of executing it, either with or without assistance from any other person or persons, break open and enter any house, building, or enclosed place, if admittance cannot otherwise be obtained: Provided that in such case he must be in possession of the warrant, and before so doing he must, as far as practicable, notify his possession of the warrant.

95. A person arrested, whether with or without warrant, shall not be handcuffed or otherwise bound, except in case of necessity, or of reasonable apprehension of violence, or of attempt to escape, or by order of the Court or of a Justice. Handcuffing, etc.

96. Every police station shall be deemed to be a lock-up house where persons charged with summary conviction offences may be received and detained according to law. Police Station to be lock-up.

Seizure and Restitution of Property.

Seizure of property the proceeds of summary conviction offence.

97. The Court may order the seizure of any property which there is reason to believe has been obtained by, or is the proceeds of, any summary conviction offence or into which the proceeds of any summary conviction offence have been converted, and may direct that the same shall be kept or sold, and that the same, or the proceeds thereof, if sold, shall be held as it directs, until some person establishes, to its satisfaction, a right thereto. If no person establishes such a right within twelve months from the seizure, such property, or the proceeds thereof, shall become vested in the Receiver-General for the public uses of the Colony, and shall be disposed of accordingly.

Seizure of things intended to be used in commission of offence.

98. The Court may order the seizure of any instruments, materials, or things which there is reason to believe are provided or prepared, or being prepared, with a view to the commission of any summary conviction offence, and may direct the same to be held and dealt with in the same manner as property seized under the last preceding section.

Enforcement of order of seizure.

99. Any order made under either of the two last preceding sections may be enforced by a search warrant under this Ordinance.

Return of property found upon person apprehended.

100. If, upon the apprehension of any person charged with a summary conviction offence, any property is taken from him, a report shall be made by the Police to the Court of the fact of such property having been taken from such person and of the particulars of such property, and the Court shall, if it is of opinion that such property, or any portion thereof, can be returned consistently with the interests of justice and the safe custody of the person charged, order such property, or any portion thereof, to be returned to the person charged or to such other person as he may direct.

Money found on person apprehended.

101. If, upon the apprehension of any person charged with a summary conviction offence, any money is taken from him, the Court may, in its discretion, in case of the conviction of such person, order such money, or any part thereof, to be applied to the payment of any costs, or costs and compensation, directed to be paid by such person.

Restitution of property on conviction. Schedule III. Form 57.

102.—(1.) Subject as hereinafter provided, where any person is convicted of a summary conviction offence, any property found in his possession, or in the possession of any

other person for him, may be ordered by the Court to be delivered to the person who appears to the Court to be entitled thereto.

(2.) Where any person is convicted before the Court of having stolen or dishonestly obtained any property, and it appears to the Court that the same has been pawned to a pawnbroker or other person, the Court may order the delivery thereof to the person who appears to the Court to be the owner, either on payment or without payment to the pawnbroker or other person of the amount of the loan or any part thereof, as to the Court, under all the circumstances of the case, may seem just. If the person in whose favour any such order is made pays the money to the pawnbroker or other person under such order, and obtains the property, he shall not afterwards question the validity of the pawn; but, save to that extent no order made under this section shall have any further effect than to change the possession, and no such order shall prejudice any right of property or right of action in respect to property existing or acquired in the goods either before or after the offence was committed.

(3.) Nothing in this section shall prevent the Court from ordering the return to any person charged with a summary conviction offence, or to any person named by the Court, of any property found in the possession of the person so charged or in the possession of any other person for him, or of any portion thereof, if the Court is of opinion that such property or portion thereof can be returned consistently with the interests of justice and with the safe custody or otherwise of the person so charged.

Probation of First Offenders.

103.—(1.) Where any person is convicted of a summary conviction offence, or of an indictable offence triable by a Justice under the provisions of part VI hereof and no previous conviction is proved against him if it appears to the Court that, regard being had to the youth, character, or antecedents of the offender, to the trivial nature of the offence, or to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may, instead of at once adjudicating any punishment against him, direct that he be released on his entering into a recog-

Court may
release first
offender on
probation of
good conduct

Schedule III.
Form 48.
Form 49.

nizance, with or without a surety or sureties, and during such period as the Court may direct, to appear for adjudication of punishment, when called upon, and in the meantime to keep the peace and be of good behaviour.

(2.) In any such case the Court may, if it thinks fit, order the offender to pay such compensation, not exceeding Ten Pounds, and such costs of the proceedings or either of them as the Court may think reasonable, and such compensation shall be payable to such person as the Court may direct.

Procedure in case of offender failing to observe conditions of recognizance.

104.—(1.) If, in any such case, the Court having power to deal with the offender in respect of his original offence, or any other Summary Court, is satisfied, by information in writing and upon oath, that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

Schedule III.
Form 50.
Form 51.
Form 52.
Form 53.

(2.) An offender, when apprehended on any such warrant, shall, if not brought forthwith before the Court having power to deal with his original offence, be brought before some other Summary Court and that Court may either remand him, by warrant, until the sitting of the Court having power to deal with his original offence, or may direct him to be released upon his entering into a recognizance, with or without a surety or sureties, conditioned for his appearance to receive adjudication of punishment.

(3.) An offender, when remanded on any such warrant, may be committed to a prison, either for the place in or for which the Court remanding him acts, or for the place where he is bound to appear to receive adjudication of punishment, and the warrant of remand shall order that he be brought before the Court before which he was bound to appear to receive adjudication of punishment, or to answer as to his conduct since his release.

Conditions as to abode of offender, etc.

105. The Court before directing the release of an offender under Section 101 shall be satisfied that the offender and his surety or sureties, if any, have fixed places of abode or regular occupation in the place for which the Court acts, or in which the offender is likely to live during the period specified for the observance of the conditions.

Keeping of the Peace.

106.—(1.) In any case where a complaint is made by any person against some other person to the effect that there is reason to fear that the defendant will do the complainant some bodily injury, the Court may, in its discretion if the complaint is established, order the defendant to enter into a recognizance, with or without a surety or sureties, to keep the peace and be of good behaviour towards the complainant.

Procedure in
case of articles
of the peace.
Schedule III.
Form 17.
Form 36.

(2.) The provisions of this Ordinance shall apply to the hearing of any such complaint, and the complainant and the defendant and the witnesses may be called and examined and cross-examined, and the complainant and the defendant shall respectively be liable to the payment of costs, or of costs and compensation, as in the case of any other complaint.

(3.) The Court may order the defendant, in default of compliance with the order, to be imprisoned for any term not exceeding six months.

107. The Court shall have power, in any complaint made for a summary conviction offence, whether the complaint be dismissed or the defendant be convicted, to bind both the complainant and the defendant, or either of them, to be of good behaviour, and may order the complainant or the defendant, in default of compliance with the order, to be imprisoned for any term not exceeding three months.

Power to bind
parties to be
of good
behaviour.

108. Every person imprisoned under either of the two last preceding sections shall be brought before the Supreme Court whenever the prison in which he is confined is delivered.

Bringing up of
person imprisoned
for want
of sureties.

109. The Court may, in any case of breach of the peace, sanction any compromise which it may deem just and right between the parties to the complaint.

Sanction of
compromise.

Saving of Validity of Process.

110. The following provisions with respect to certain proceedings in the Court shall have effect, that is to say,—

- (1.) A warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to sustain the same;

Warrant of
commitment.

Warrant of distress.

(2.) A warrant of distress shall not be held void by reason only of any defect therein, if it is therein alleged that an order has been made, and there is a good and valid order to sustain the same; and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution of the warrant; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress, so however, that, if amends are tendered before action brought, and, if the action is brought are paid into Court in the action, and the plaintiff does not recover more than the sum so tendered and paid into Court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs, to be taxed as between solicitor and client.

(3.) A summons or warrant or other process shall not be held void by reason of the Justice who signed the same dying or ceasing to hold office.

Barring of objection to jurisdiction unless taken at hearing, etc.

111. It shall not be competent for any person to impeach, in any proceeding or in any other manner whatever, any order made by the Court on the hearing of a complaint on the ground that the Court had no jurisdiction to make the order, unless such objection was taken on the hearing of the complaint or at the time of the making of the order.

Effect of variance or defect in proceedings.

112.—(1.) In any case in the Court, no variance between the complaint, or summons or warrant, and the evidence adduced in support thereof, as to the time at which the cause of complaint is alleged to have arisen shall be deemed material, if it is proved that such complaint was in fact made within the time limited by law for making the same; and no variance between such complaint, or summons, or warrant, and the evidence adduced in support thereof, as to the place in which the cause of complaint is alleged to have arisen, shall be deemed material.

(2.) No objection shall be taken or allowed, in any proceeding in the Court, to any complaint, summons, warrant,

or other process for any alleged defect therein in substance or in form, or for any variance between any complaint or summons and the evidence adduced in support thereof.

(3.) If any variance or defect mentioned in this section appears to the Court at the hearing to be such that the defendant has been thereby deceived or misled, it shall be lawful for the Court to make any necessary amendments, and, if it is expedient so to do, to adjourn, upon such terms as it may think fit, the further hearing of the case.

Proof of Process.

113.—(1.) In every proceeding in the Court in which it is necessary to prove the service of any summons, notice, order, or other process whatsoever of the Court upon any person, it shall be deemed to be sufficient proof of such service if the person by whom such process has been served is duly sworn, by and before any Justice, to an affidavit of such service. Proof of service of summons, etc.
Schedule III.
Form 60.

(2.) Any such affidavit shall be received in evidence in any proceeding in any Court without proof of the signature or of the official character of the person making the same or of the person before whom it is made; and the onus of showing that any service referred to in any such affidavit was not made in accordance with the tenor of the affidavit shall be on the party objecting.

(3.) All such affidavits shall be numbered by the clerk of the Court consecutively in the order in which they are received, and shall be filed as of record in the Court in which they are entitled; and, in every case in which any such affidavit is used, it shall be sufficient to note on the proceedings the number of such affidavit and the Court in which it is filed.

114. Where, upon the hearing of any complaint, it is proposed to prove against the defendant the fact of a former conviction, a copy of the order of any Magistrate's Court in respect of the former offence, certified by the clerk of such Court, shall, upon proof of the identity of the defendant, be deemed sufficient evidence of such former conviction. Proof of previous conviction.

Enforcement of Recognizance.

115.—(1.) Where a recognizance is conditioned for the appearance of any person before the Court or for his doing some other act or thing to be done in, to, or before the Mode of enforcing recognizance.

Schedule III.

Form 37.

Form 22.

Form 40.

Form 41.

Court or in a proceeding in the Court, the Court may, if the recognizance appears to the Court to be forfeited, declare the same to be forfeited, and order the sum due thereunder to be levied upon the movable property of the person liable thereunder, in the same manner as if the sum were a penalty adjudged by the Court to be paid, and were ascertained by an order: Provided, however, that the Court may at any time cancel or mitigate the forfeiture, upon the person liable under the recognizance applying and giving security, to the satisfaction of the Court, for the future performance of the condition of the recognizance, and paying, or giving security for the payment of, the costs incurred in respect of the forfeiture, or upon such other conditions as the Court may think just: Provided also that, if it appears to the Court that a warrant of distress should not, under the provisions hereinbefore contained, be issued against the person liable under the recognizance, but that such person has immovable property, the Court may, if it thinks fit, postpone the issue of a warrant of commitment against such person, and transmit the recognizance to the Attorney-General in order that it may be put in suit against such person.

Form 38.

Form 39.

Form 23.

(2.) Where a recognizance to keep the peace and to be of good behaviour, or not to do or commit some act or thing, has been entered into by any person as principal or as surety before the Court, the Court may, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is by law a breach of the condition of the same, by order, adjudge such recognizance to be forfeited, and adjudge the persons bound thereby, whether as principal or as sureties, or any of such persons, to pay the sums for which they are respectively bound; and such recognizance shall be dealt with in the manner hereinbefore mentioned.

(3.) All sums paid or recovered in respect of any recognizance declared or adjudged by the Court in pursuance of this section to be forfeited shall be paid to the clerk and shall be paid over and accounted for in the manner in which penalties imposed by the Court are paid over and accounted for.

Taking of
recognizance.

116. Where a Justice has made an order directing or allowing any recognizance to be taken, and it is not practicable or convenient for him to attend at the time and place where the recognizance is to be taken, it shall be lawful for

any other Justice to attend and take the recognizance, which shall thereafter have effect and be dealt with in the same manner as if it had been taken by such first-mentioned Justice.

117. Where any recognizance is declared to be forfeited any Justice having jurisdiction over the matter of the information or complaint may forthwith or at any time after such declaration issue a warrant of commitment against any person liable, whether as principal or surety under such recognizance for any time not exceeding two months unless the amount due under such recognizance and the costs of the commitment and conveying such person to prison, if such Justice thinks fit so to order (the amount thereof being ascertained and stated in the warrant) are sooner paid.

Where recognizance forfeited.

Appropriation of Penalties, etc.

118. Subject to the provisions of this or any other Ordinance, every penalty recovered in the Court in respect of a summary conviction offence, and also the proceeds of any seizure or forfeiture made or incurred subject to the process of the Court, shall be paid by the Officer into whose hands the same may come to the Receiver-General for the use of the Colony : Provided as follows :—

Appropriation of penalties and seizures.

Subject to the provisions of any other Ordinance the Governor may award an amount not exceeding one-half of the net proceeds of any such penalty, seizure, or forfeiture, after the deduction of all costs, charges, and expenses whatsoever, to or among any person or persons who may have been concerned in seizing, prosecuting, or giving information or assistance in the matter, and if there are more persons than one, in such proportions as he may think fit.

Rewards.

119. Subject to the express provisions of any Ordinance relating thereto, every forfeiture not pecuniary which is incurred in respect of a summary conviction offence, or which may be enforced by the Court, may be sold or disposed of in such manner as the Court may direct, and the proceeds of such sale shall be applied in the like manner as if the proceeds were a penalty imposed under the Ordinance on which the proceeding for the forfeiture is founded.

Mode of dealing with forfeiture not pecuniary.

120.—(1.) It shall be lawful for the Governor to remit, in whole or in part, any sum of money which may be imposed as a penalty and as costs, charges, and expenses in con-

Power of the Governor as to remission of penalties, etc.

nexion with such penalty, on any person convicted of a summary conviction offence, although such money may be, in whole or in part, payable into the Treasury for the public uses of the Colony, or to some party other than the Crown; and to extend the Royal Mercy to any person who may be imprisoned for non-payment of any sum of money so imposed, although the same may be, in whole or in part, payable into the Treasury for the public uses of the Colony, or to some party other than the Crown.

(2.) It shall be lawful for the Governor to order the restoration of anything seized or detained in connexion with a summary conviction offence.

(3.) Every such remission or restoration may be made in such manner and subject to such terms and conditions as the Governor may see fit to direct.

Effect of acquiescence in remission, etc.

121. Every person who accepts or acquiesces in any such remission or restoration as aforesaid shall be thereby debarred from having, maintaining, or continuing any action or suit in respect of any matter to which such remission or restoration may relate, and no further proceedings shall be taken against any such person in relation to any such matter.

Payment of sum by person imprisoned in default of payment.

122. Where any person who is committed to prison upon any order for non-payment of any sum of money adjudged to be paid by such order desires to pay the same and costs before the expiration of the time for which he has been so ordered to be imprisoned by the warrant for his commitment, the same shall be paid either to the keeper or to the Justice who issued the warrant of commitment, and if to the keeper, the keeper shall thereupon discharge the person detained and shall forthwith pay the same to such Justice, and if to the Justice such Justice shall on receipt of such sum from any person on behalf of the person committed issue under his hand to the keeper an order to liberate such person, and such person shall thereupon be liberated by the keeper accordingly.

Accounts.

123. Every Justice and every Keeper of a prison shall keep a true and exact account of all moneys received by him under this Ordinance, and shall, within the first seven days of every month, transmit a fair copy of every such account for the preceding month to the Receiver-General.

Schedule III.
Form 61.

PART VIII.**APPEALS AND SPECIAL CASES.**

124. Either of the following parties (that is to say) :— Right of appeal.

(1.) Where a Court refuses to make a conviction or order, the complainant ; or,

(2.) Where a Court makes a conviction or order ordering any of the following things (that is to say) :—

(a.) Payment of a penalty not less than Five Pounds ; or,

(b.) The doing or not doing of some act other than the payment of money, and that in case of default in the doing or not doing of such act the defendant be imprisoned or be imprisoned and kept to hard labour ; or,

(c.) Imprisonment with or without hard labour, the party against whom the conviction or order is made may appeal to the Supreme Court against such decision.

125. Where a right of appeal is given by an Ordinance passed before the commencement of this Ordinance to any person whomsoever whether in respect of the conviction or order of any Justice against such person or in respect of any refusal by any Justice to convict or make an order against any defendant then and in every such case an appeal shall lie under this Ordinance and the proceedings upon such appeal shall be according to this Ordinance. Right of appeal under former Ordinances.

126. An appeal shall be commenced by the Appellant giving to the Clerk notice of such appeal, which may be verbal or in writing, and if verbal shall be forthwith reduced to writing by the Clerk and signed by the appellant, or his counsel or solicitor, if he has appeared by counsel or solicitor, and such notice shall specify the grounds on which the appellant appeals. Notice of appeal to be given.

The notice of appeal shall be given in every case before the expiration of the third day after the day on which the Court has made the order or given the refusal appealed against.

Such notice shall be as in Forms 1 or 2 in Schedule IV. to this Ordinance.

Recognizance
to be entered
into.

127. Within six days after the conviction or refusal the appellant shall, unless he elects to remain in custody under the provisions of section 130 hereof, enter into a recognizance with one or more sureties acknowledged before a Justice and conditioned to appear and prosecute the appeal and abide by the judgment of the Supreme Court thereupon and pay such costs as may be by the Supreme Court awarded.

Such recognizance shall be as in Form 3 in Schedule IV. to this Ordinance.

Grounds of
appeal.

128. It shall be deemed a sufficient ground of appeal for an appellant if a defendant to allege that he is not guilty of the offence, and if a complainant to allege that the defendant is guilty of the offence with which he stood charged.

But either party may allege any special ground in law, and the appellant shall not be permitted to rely on any special ground of appeal unless such ground is set forth in the notice of appeal, or unless the appellant shall have given seven days previous notice to the respondent of such special ground of appeal.

Appellant to
be liberated on
entering into
recognizance.
Clerk to send
copy of pro-
ceedings to
Registrar.

129. Upon notice of appeal being given and such recognizance as aforesaid being entered into, the Justice before whom the recognizance is entered into shall liberate the appellant if in custody, and the Clerk shall with all convenient despatch transmit to the Registrar of the Supreme Court a copy of the record of the proceedings, and the notes of evidence taken by him duly certified under his hand. On receipt thereof the Registrar shall cause the appeal to be entered for the next convenient sittings of the Supreme Court in Appeal and shall notify the Clerk thereof.

Where recog-
nizance not
entered into.

130. A defendant who shall have given notice of appeal at the hearing and is unable to find the necessary surety or sureties may prosecute his appeal without entering into a recognizance providing he remains in custody pending the hearing of the appeal, and in such case the Justice shall by warrant under his hand direct the appellant to be detained in custody accordingly, and shall in such warrant intimate to the Keeper that notice has been given of appeal.

And the appellant shall in such case be detained in custody and may be taken without any fresh order or warrant in custody of a Police Officer to the Supreme Court to attend the hearing of the appeal.

131. The Clerk shall in the prescribed manner transmit to or cause to be served upon the respondent or his solicitor a copy certified under his hand of the notice of appeal, and shall when ascertained from the Registrar notify the appellant and respondent or their solicitors of the day on which the appeal will in the ordinary course of business be on the list for hearing before the Supreme Court.

Copy of notice to be sent to respondent.

132. All appeals shall, if from a decision of a Court of Summary Jurisdiction in Trinidad be heard in the Town of Port-of-Spain, and notwithstanding anything to the contrary contained in any Ordinance, the Supreme Court shall sit for the hearing of such appeals twice in every month, on such days as such Court may from time to time, by Rules, appoint. Appeals from Tobago shall be heard at the Court House in the Town of Scarborough by the Judge sitting at the Criminal Session there on any day not less than three days after the day of the conviction or order appealed against.

Where and when appeals heard.

133. Upon every appeal it shall be lawful for the Supreme Court if the appellant be present, but not otherwise, to consider the evidence according to the notes thereof, and also where it appears that through want of advice or other reasonable cause any material evidence was not adduced in the Court below, the Supreme Court may, if it shall think fit, examine any further or other evidence adduced by either party, and the Supreme Court may reverse or confirm in whole or in part the judgment appealed against or give such new or different judgment as it thinks just, but except by order of the Court on such special grounds as aforesaid and except on such terms as to adjournment, costs, and otherwise as the Court shall deem just, no witnesses shall be examined on the appeal nor shall the expense of the attendance of any such witness be allowed. Provided that if the appellant shall fail to appear personally when called upon to appear upon his recognizance by the Registrar or officer of the Court on the hearing of the appeal, he shall be deemed to have abandoned his appeal, and the Court shall confirm such conviction or order with costs and the recognizance shall be declared forfeited.

Court may consider evidence on notes and further evidence.

Provided that if it shall be made to appear to the satisfaction of the Court that the absence of the appellant is due to illness or other reasonable cause it shall be lawful for the Court to adjourn the hearing of such appeal to such day, and subject to such terms and conditions as to the payment of costs, or otherwise as to the Court shall seem

just. Provided that if the conviction against the appellant, whether he shall have entered into a recognizance or not, be affirmed, the term of imprisonment shall be deemed to commence from the date on which such conviction is affirmed.

Defect in
form may be
amended.

134. If upon the hearing of any appeal it appears that there is any defect in form in the information or complaint, or in the drawing up of the conviction or in any other part of the proceedings or in the record thereof, such defect may be amended. And the Supreme Court may make such amendments to any complaint, conviction, notice or other document as shall be necessary for the due determination of the matter in question and save as hereinafter excepted may enlarge or shorten the time for the doing of any act necessary to enable the appeal to be heard: Provided always that no complaint or conviction shall be held void on the ground that any offence is therein described in alternative language. Provided also that the Court shall not extend the time prescribed by Sections 126 and 127 hereof for the giving of notice of appeal and for the entering into the recognizance.

No objection
on account of
defect in form.

135. No objection on account of any defect in the form of setting forth any ground of appeal shall be allowed unless the Supreme Court is of opinion that the ground of appeal is so imperfectly or incorrectly stated as to be insufficient to enable the party receiving the same to enquire into the subject matter thereof or to prepare for trial: Provided always, that in all cases where such Court is of opinion that any objection to any ground of appeal or to the reception of evidence in support thereof ought to prevail, it shall be lawful for such Court, if it thinks fit, to cause the ground of appeal forthwith to be amended by the Registrar on such terms as to payment of costs and postponement as to such Court shall appear just and reasonable.

Frivolous and
vexatious
appeals.

136. If on the hearing of an appeal the Supreme Court adjudges such appeal to have been frivolous and vexatious, the solicitor who has given notice of appeal shall be personally liable to pay the taxed costs of the respondent, and in such case upon proof to the satisfaction of a Judge in chambers that execution against the appellant and his sureties if any has not produced sufficient to realise the amount of such taxed costs then the Judge shall on summons to be served on such solicitor make an order for the payment by such solicitor of the balance of such costs remaining unpaid.

137. Every person who, being duly summoned to appear and give evidence upon any appeal, neglects or refuses without lawful excuse to appear at the time and place specified in the summons, or who, having appeared refuses without lawful excuse to give evidence or to answer any question put to him by the Supreme Court, shall for every such offence forfeit such sum not exceeding Twenty Pounds as to the Supreme Court seems fit. Neglecting or refusing to appear when summoned.

138. Upon any appeal the Supreme Court may, if it thinks fit, order the party against whom the same is decided to pay to the other party such sum for his costs and charges as to the Supreme Court appears just and reasonable, such costs to be recoverable in the manner in this Ordinance provided. Costs.

139. At any time after an appeal against any conviction or order has been decided any Judge of the Supreme Court or any Justice of the Peace having jurisdiction over the matter of the information or complaint may issue such warrant as is required for the execution of the judgment or order of the Supreme Court. If upon any appeal the Supreme Court orders either party to pay costs, such order shall direct such costs to be paid to the Registrar to be by him paid over to the party entitled to the same, and shall state within what time such costs are to be paid, and if the same are not paid within the time so stated, the Registrar, upon application of the party entitled to such costs or his solicitor, shall grant a certificate that the costs have not been paid. Upon production of such certificate to any Justice of the Peace having jurisdiction over the matter of the information or complaint, it shall be lawful for such Justice by memorandum endorsed upon the recognizance, if any, given in respect of the appeal, to declare such recognizance to be forfeited. Enforcing costs.

The Registrar's certificate shall be as in Form 4 in Schedule IV. to this Ordinance.

140. Where in respect of any appeal no recognizance has been entered into, any Justice having jurisdiction over the matter of the information or complaint may upon production to him of the Registrar's certificate that the costs have not been paid, issue a warrant of commitment against any person liable for such costs for any time not exceeding one month unless the amount of such costs and the costs of commitment and conveying the party to prison, if such Justice thinks fit so to order (the amount thereof being ascertained and stated in the commitment) be sooner paid. Enforcing costs where no recognizance.

The warrant of commitment shall be as in Form 5 in Schedule IV. to this Ordinance.

Statement of
case.

141. A Justice may in his discretion on the application of either party to a complaint or on his own motion without such application state a case for the opinion of the Supreme Court. The statement of facts in such case so stated shall for the purpose of the determination thereof be conclusive.

The case so stated shall be transmitted to the Registrar of the Supreme Court in a similar manner and with the same notice to the parties as in a case on appeal hereunder.

Nothing herein contained shall be construed to prevent either party in such a case appealing as to any determination of fact or any question of law not raised in the case stated by the Justice; but such appeal shall be in such event independent of the case stated.

The Attorney-General may by notice in writing under his hand require a Justice to state a case on any point of law, and on receipt of such notice the Justice shall state such case accordingly.

The Supreme Court may remit any case stated under the provisions of this Section to the Justice stating the same for further information from such Justice.

Rules.

142. It shall be lawful for the Judges of the Supreme Court to make such rules as to them seem meet for the regulation and practice of the Supreme Court with regard to appeals and special cases, and also to frame and from time to time to alter or revoke a table of the fee stamps to be affixed to the proceedings or otherwise and also of the costs that may be allowed to any party to any appeal, and all such rules or tables shall be transmitted under the seal of the Court to the Governor, and shall be published in at least four issues of the *Royal Gazette* and shall take effect so soon as they have been so published and approved of by the Governor and the Legislative Council but not otherwise.

P A R T I X .

OFFENCES.

143. The following shall be deemed offences under this Ordinance and be dealt with as hereinafter provided :

Language.

- (1.) Indecent, violent, insulting, abusive or threatening language used in Court or addressed to any

Justice in Court, or in going to or returning from the Court, or used against any party to any matter in the course of hearing, or to any witness or other person then lawfully being in the Court room or within the precincts of the Court.

- (2.) Violent, indecent or unbecoming gestures or conduct in Court while the Court is actually sitting. Gestures.
- (3.) Any assault or battery committed on a Justice in Court or in going to or returning from the Court, or on any officer or servant of the Court or on any party to any matter or witness or other person in Court. Assault.
- (4.) Wilfully interrupting or obstructing any proceedings of the Court, or other misbehaviour in the Court. Interruption and obstruction.
- (5.) Actual and express disobedience in Court to any ruling or order of the Justice made in the course of the hearing. Disobedience.
- (6.) Any resistance to or obstruction of any officer or servant of the Court in the discharge of his duty whether in the service of any process of the Court, or in obedience to or in the execution of any warrant or command of the Justice in Court. Resistance.
- (7.) The writing or uttering to the Justice whether in Court or otherwise of any abusive, indecent or threatening letter or language or sending to such Justice any threatening message relating to any pending matter or information or of any letter calculated or intended to prejudice the mind of the Justice in relation to any information or matter then pending, or in relation to any person about to give evidence before him in any such information or matter. Abusive, etc., letters.

144. If in the opinion of the Justice any such offence as in the last section mentioned is committed by any person whomsoever, it shall be lawful for any Police Officer on the verbal order of such Justice to take such offender into custody, and thereupon it shall be lawful for such Justice if he thinks fit :—

- (1.) To admonish and discharge such person ; or

- (2.) To order the offender to be removed from the Court ; or
- (3.) To order the offender to pay a fine not exceeding Five Pounds ; or
- (4.) If he think fit without the imposition of any fine by warrant under his hand to commit such offender to the Royal gaol without hard labour for any term not exceeding fourteen days.

If any fine imposed under this section shall not be paid by the offender within such time as the Justice may prescribe it shall be lawful for the Justice on such default by warrant to commit the offender to the Royal Gaol with or without hard labour for any term not exceeding fourteen days.

Provided always that if any such offender shall be a practitioner before the Court, it shall be incumbent on such Justice to report the matter in writing to the Judges of the Supreme Court.

Provided also that nothing in this section contained shall be construed to be in derogation of the provisions of any other Ordinance prescribing penalties for any assault or battery committed on any Justice, so that no person shall be twice punished for the same offence.

Appeal.

145. If any person ordered by any Justice to pay a fine or to be imprisoned under the authority of the last preceding section shall be dissatisfied with such order, such person may at the time of such order give notice in writing to the committing Justice of his intention to appeal to the Supreme Court against such order.

The giving of such notice signed by the appellant or his Solicitor shall operate as a stay of such order ; provided, but not otherwise, that the appellant shall within two days after the giving thereof enter before the Justice into a recognizance with one surety in the sum of £25 acknowledged before the Justice and conditioned that the appellant do personally appear and do not depart the Court without leave and abide by the judgment of the Supreme Court thereupon and pay such costs as may be by such Court awarded.

Upon such notice being given and such recognizance being entered into the Justice before whom such recognizance is entered into shall liberate the appellant if in custody, and thereupon the appeal shall be proceeded with in the manner hereinbefore provided.

146. The committing Justice shall within seven days after the making of the recognizance sign and transmit to the Registrar of the Supreme Court a full statement of the case specifying fully the causes of such committal. Justice to state cause of committal.

The Supreme Court shall consider the statement by the Justice of the causes of committal and also such grounds of appeal as may be set forth by the appellant.

147. If the Supreme Court shall confirm the order of the committing Justice, any Stipendiary Justice may on receipt of a certificate of such confirmation proceed to enforce such order as if there had been no appeal against the same. If confirmed order to be enforced.

148. No action shall be brought against any Justice for any act or order done or made by him acting under the authority of Section 144 hereof, or against any officer or servant of the Court or against any Police Officer for any act done by him or them in obedience to the command of any Justice acting thereunder. Protection.

149. If upon any appeal from an order made under the provisions of Section 144 hereof the order of any Justice shall be quashed by the Supreme Court, and the person alleged to have offended has been actually in custody, it shall be lawful for but not imperative on the Supreme Court to award to the appellant such sum of money by way of compensation and satisfaction in respect of the committal by such Justice as to the Supreme Court may seem reasonable and proper, and such award shall be a bar to any Civil proceedings whatever in respect of such order. Compensation where order quashed.

150. The Justice whose order shall be quashed shall not, unless the Governor shall otherwise order, be made personally liable to pay any compensation or costs which the Supreme Court may award to the appellant, but the same shall be paid to the appellant from the Colonial Treasury on the warrant of the Governor. Justice not liable to pay compensation.

151. The provisions of this part of this Ordinance shall apply to the Courts held by Coroners in the Colony, and to a Justice sitting to take depositions on the hearing of a charge of any indictable offence, and to a Justice exercising jurisdiction in respect of any civil matter lawfully before him, and to any Judge of a District Court or Petty Civil Court in the Colony. Application of this part.

PART X.

PROTECTION OF JUSTICES FROM VEXATIOUS ACTIONS AND PROCEEDINGS.

Action to be brought in Supreme Court.

152. Every action to be brought against any Justice for any act purporting to have been done by him in the execution of his office shall be brought in the Supreme Court.

If plaintiff fail to prove malice or want of jurisdiction he shall be non-suited.

153. The endorsement of the writ of summons in every such action shall allege either that such act was done maliciously, and without reasonable and probable cause; or that it was done in a matter not within the jurisdiction of such Justice; otherwise the writ shall be set aside on summons; and if the plaintiff shall fail at the trial to prove such allegation, a verdict shall be given for the defendant.

Where act is done without jurisdiction, malice need not be alleged, but no action shall be brought until conviction is quashed.

154. Any person injured by any act done by a Justice in a matter not within his jurisdiction, or in excess of his jurisdiction; or by any act done in any such matter under any conviction or order made or warrant issued by him may maintain an action against such Justice without alleging that the act complained of was done maliciously and without any reasonable and probable cause, but no such action shall be brought for anything done under such conviction or order or for anything done under any warrant which shall have been issued by such Justice to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after the conviction shall have been quashed by the Supreme Court.

No action shall be brought in respect of a conviction affirmed upon appeal.

155. Where a warrant of distress or of commitment shall be granted by a Justice upon a conviction or order, which either before or after the granting of the warrant shall have been or shall be affirmed upon appeal, no action shall be brought against him for anything which may have been done under it, by reason of any defect in such conviction or order.

Defendant may give special matter in evidence.

156. In any such action as mentioned in Section 152 hereof the defendant shall be allowed without any special plea or defence or notice of defence to give any special matter of defence, excuse or justification, in evidence under such plea at the trial.

Actions to be brought within three months, and notice to be given.

157. No such action as is mentioned in Section 152 hereof shall be brought, unless it be commenced within three months after the commission of the act complained of, nor unless one month at least before the issue of the writ the plaintiff

shall have given to the defendant notice in writing of the intended action by delivering the same to him, or leaving the same for him at his usual or last known place of abode.

158. After notice of action shall be given, and before its commencement, the Justice receiving such notice may tender to the party complaining, or to his solicitor, such sum of money as he may consider just as amends for the injury complained of.

Compensation may be tendered.

159. After the commencement of any action, and at any time before notice of trial has been given therein, the defendant, if he has not made such tender, or in addition to any tender made, may pay into the Supreme Court such sum of money as he may consider just, and such tender and payment into such Court, or either of them, may afterwards be given in evidence at the trial, and if the judge or jury shall be of opinion that the plaintiff is not entitled to damages beyond the sum tendered or paid into the Supreme Court, he or they shall give a verdict for the defendant, and the plaintiff shall not be at liberty to elect to be non-suited; and any sum of money paid into such Court, or as much of it as shall be sufficient to pay the defendant's costs, shall be paid out of such Court to him, and any residue shall be paid to the plaintiff.

Amount tendered as compensation may be paid into Court.

160. No action shall in any case be brought against any Justice for anything done under any warrant, which shall not have been followed by a conviction or order, or if, being a warrant upon an information for an alleged indictable offence, a summons was issued previously thereto, and served upon such person personally, or by its being left for him with some person at his usual or last known place of abode, and he shall not have appeared in obedience thereto.

No action to be brought unless there has been a conviction or if there has been a summons.

161. No action shall be brought against any Justice who shall have granted a warrant of distress against any person for enforcing the payment of any rate made, allowed and published by reason of any irregularity or defect in such rate, or of such person not being liable to be rated.

Nor for granting warrant for enforcing rate.

162. Where a conviction or order shall be made by a Court and a warrant of distress or of commitment shall be granted thereon by some other Justice *bonâ fide*, and without collusion, no action shall be brought against such last mentioned Justice by reason of any defect in such conviction or order, or for any want of jurisdiction in the Court that made the same, but the action may be brought against the Court or Justice who made such conviction or order.

Nor against a Justice for warrant made by him upon the conviction of another Justice.

Nor for exercise of any discretionary power.

163. No action shall be brought against any Justice for the manner in which he shall have exercised any discretionary power given to him by law.

Remedy where Justice shall refuse to do his duty.

164. Where any Justice shall refuse to do any act relating to his duties as a Justice, the party requiring such act to be done may apply to the Supreme Court, upon an affidavit of the facts, for a rule calling upon such Justice, and also the party to be affected by such act, to show cause why such act should not be done; and if after due service of such rule good cause shall not be shewn against it, the said Court may make it absolute, with or without costs, and such Justice upon being served with such rule absolute, shall obey it, and do the act required, and no action nor proceeding whatsoever shall be brought against him for having obeyed such rule and done such act so required.

In what cases plaintiff shall not recover substantial damages.

165. Where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order, and shall seek to recover damages for such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond one farthing as damages for such imprisonment, or any cost of suit whatsoever, if it shall be proved that he was guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and that he had undergone no longer imprisonment than that assigned by law for the offence of which he was convicted, or for non-payment of the sum he was ordered to pay.

Costs.

166. In any action against a Justice for anything done by him in the execution of his office, if he obtains a judgment upon verdict or otherwise, he shall be entitled to his full costs, as between solicitor and client.

Forms.

167. The Forms contained in the Schedules to this Ordinance may with such variations and additions as the circumstances of the particular case may require be used in the cases to which they respectively apply, and when so used shall be good and sufficient in law.

Provided that nothing in this section shall affect the use and validity of any special forms of process in respect of summary conviction offences which may be given by any Ordinance relating to such offences.

SCHEDULES.**SCHEDULE I.****TABLE OF FEES.**

For each Information or Complaint	....	....	£0	6	0
„ „ Summons to a witness either for Com- plainant or Defendant....	....	....	0	1	0
For a Warrant of Distress exclusive of the cost of taking and keeping the distress	....	0	1	0	
Also a charge of five per cent. on the proceeds for selling the goods.					

SCHEDULE II.**INDICTABLE OFFENCES FOR WHICH ADULTS MAY BE
SUMMARILY TRIED.**

FIRST COLUMN. Adults pleading guilty.	SECOND COLUMN. Adults consenting.
1. Larceny.	1. Simple larceny, where the value of the whole of the property alleged to have been stolen, in the opinion of the Court exceeds twenty pounds, but does not exceed fifty pounds.
2. Offences declared by any statute for the time being in force to be punishable as larceny.	2. Offences declared by any statute for the time being in force to be punishable as larceny, where the value of the whole of the property alleged to have been stolen, destroyed, injured or otherwise dealt with by the offender in the opinion of the Court exceeds twenty pounds but does not exceed fifty pounds.
3. Larceny from or stealing from the person.	3. Larceny from or stealing from the person, where the value of the whole of the property alleged to have been stolen in the opinion of the Court exceeds twenty pounds but does not exceed fifty pounds.

INDICTABLE OFFENCES, &c.—CONTINUED.

FIRST COLUMN. Adults pleading guilty.	SECOND COLUMN. Adults consenting.
<p>4. Larceny as a clerk or servant.</p> <p>5. Embezzlement by a clerk or servant.</p> <p>6. Stealing any animal, or killing any animal with intent to steal the carcase or any part of the animal so killed, in any case where such stealing or killing is an indictable offence.</p> <p>7. Receiving stolen goods, in any case where such receiving is an indictable offence.</p> <p>8. Aiding, abetting, counselling, or procuring the commission of any offence hereinbefore in this column specified.</p> <p>9. Attempt to commit any offence hereinbefore in this column specified.</p>	<p>4. Larceny as a clerk or servant, where the value of the whole of the property alleged to have been stolen in the opinion of the Court exceeds twenty pounds, but does not exceed fifty pounds.</p> <p>5. Embezzlement by a clerk or servant, where the value of the property alleged to have been embezzled in the opinion of the Court exceeds twenty pounds, but does not exceed fifty pounds.</p> <p>6. Stealing any animal, or killing any animal with intent to steal the carcase or any part of the animal so killed, in any case where such stealing or killing is an indictable offence and where the value of the animal in the opinion of the Court exceeds twenty pounds but does not exceed fifty pounds.</p> <p>7. Receiving stolen goods, in any case where such receiving is an indictable offence, and where the value of the whole of the property alleged to have been received in the opinion of the Court exceeds twenty pounds but does not exceed fifty pounds.</p> <p>8. Aiding, abetting, counselling, or procuring the commission of any offence hereinbefore in this column specified, where the value of the whole of the property which is the subject of the alleged offence in the opinion of the Court exceeds twenty pounds but does not exceed fifty pounds.</p> <p>9. Attempt to commit any offence hereinbefore in this column specified, where the value of the whole of the property which is the subject of the alleged offence in the opinion of the Court exceeds twenty pounds but does not exceed fifty pounds.</p>

SCHEDULE III.

NOTE.—The words in *italics* in the margin of a Form, or words to the like effect, are to be used according to the circumstances of each case.

FORM No. 1.

Complaint without Oath.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

A. B., of _____ comes before me, the undersigned (*Stipendiary*)
Justice for the _____ District, and complains against *C. D.*, of _____
for that the said *C. D.* (1) _____ and the (1) State
said *A. B.* prays that the said *C. D.* may be summoned to answer the said _____
complaint. _____ concisely the
substance of
the complaint.

Signed.

Complainant.

Before me this _____ day of _____, 19____, at _____

(Signed.)

(*Stipendiary*) Justice.

FORM No. 2.

Complaint upon Oath.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Informant

v.

C. D., Defendant.

The information of *A. B.*, of _____ who saith on his oath (1) (1) Or,
that *C. D.*, of _____ (2) _____ *Affirmation.*
(3) _____ (2) State
concisely the
substance of
the informa-
tion.
(3) Add, for
the arrest of a
witness—
*And he further
saith that E.F.
of _____ can
give material
evidence, but
is not likely to
attend volun-
tarily; or, and
wilfully avoids
service of the
summons.*

And the said *A. B.* prays that the said *C. D.* may be summoned to answer the said information (4) (5)

(4) Or, if a warrant is desired in the first instance—may be apprehended for the said offence, and dealt with according to law.

(5) Or, for sureties for the peace—*And he lays this information for the safety of his person and property, and not from malice or revenge against the said C. D. Add, for the arrest of a witness—And he further prays that E. F. may be apprehended and brought before the Court to give evidence.*

(Signed.)

Informant.

Taken before me this
, at

day of

(Signed.)

(*Stipendiary*) Justice.

FORM No. 3.

Summons to Defendant upon Complaint or Information.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant,

To C. D., of

Whereas complaint has this day been made [or, *information has this day been laid*] before me, the undersigned (*Stipendiary*) Justice for the District, for that you (1) This is to command you to be and appear at o'clock, m., on the day of 19, at before the (*Stipendiary*) Justice in the said Court, to answer the said complaint [or, *information*], and to be further dealt with according to law.

(1) State concisely the substance of the complaint [or, *information*.]

Dated this

day of

19 .

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 4.

Warrant of apprehension where Defendant has disobeyed Summons.

TRINIDAD AND TOBAGO.

COUNTY OF

*A. B., Complainant, [or Informant]**v.**C. D., Defendant.**To all Police Officers.*

Whereas on the day of 19 ,
 complaint was made [or, *information was laid*] before me, the undersigned
 (*Stipendiary*) Justice for the District,
 for that *C. D.* (1) And whereas (1) State
 I then issued my summons to the said *C. D.* commanding him to be and concisely the
 appear [*etc. as in the summons*]; And whereas the said *C. D.* has substance of
 neglected to be or appear at the time and place so appointed in and by the complaint
 the said summons, although it has been proved to me, upon oath, that [or, *informa-*
 the said summons has been duly served upon the said *C. D.*:—This is to tion.]
 command you forthwith to apprehend the said *C. D.*, and to bring him
 before the (*Stipendiary*) Justice in the said Court, to answer the said
 complaint [or, *information*], and to be further dealt with according to law.

Dated this day of 19 ,

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 5.

Warrant for Apprehension of Defendant in the first instance.

TRINIDAD AND TOBAGO.

COUNTY OF

*A. B., Informant,**v.**C. D., Defendant.**To all Police Officers.*

Whereas information has this day been laid before me, the
 undersigned (*Stipendiary*) Justice for the District,
 for that *C. D.*, (1) and oath having been made
 before me substantiating the matter of such information :—This is to (1) State
 command you forthwith to apprehend the said *C. D.*, and to bring him concisely the
 before the (*Stipendiary*) Justice in the said Court, to answer the said substance of
 information, and to be further dealt with according to law. the informa-
 tion.

Dated this day of 19 .

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 6.

Summons to Witness.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To E. F. of

(1) State
concisely the
substance of
the complaint
[or, informa-
tion.]

(2) or, defen-
dant.

Whereas complaint has been made [or, *information has been laid*] before me, the undersigned (*Stipendiary*) Justice for the District, for that C. D. (1) and it has been made to appear to me that you are likely to give material evidence on behalf of the complainant (2) in this behalf:—This is to require you to be and appear at o'clock, m., on day, the day of 19 , at before the (*Stipendiary*) Justice in the said Court, to testify what you know concerning the matter of the said complaint [or, *information*.]

Dated this day of 19 .

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 7.

Warrant of Apprehension where Witness has disobeyed Summons.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To all Police Officers.

(1) State
concisely the
substance of
the complaint
[or, informa-
tion].

(2) Or, defen-
dant.

(3) Or, that the
said E. F. wil-
fully avoids
service of such
summons.

(4) Or, is ready
to be paid or
tendered.

Whereas complaint has been made [or, *information has been laid*] before me, the undersigned (*Stipendiary*) Justice for the District, for that C. D. (1) and it having been made to appear to me that E. F., of was likely to give material evidence on behalf of the complainant (2), I duly issued my summons to the said E. F., requiring him to be and appear [*etc., as in the summons*]; And whereas the said E. F. has neglected to be and appear at the time and place so appointed in and by the said summons, and no just excuse has been offered for such neglect; And whereas proof has been made before me, upon oath, that such summons has been duly served upon the said E. F. (3), that the said E. F. is likely to give material evidence as aforesaid, and that a reasonable sum has been paid or tendered (4) to him for his expenses in this behalf:—This is to command you forthwith to apprehend the said E. F., and to bring him at o'clock, m., on day, the day of 19 , at before the (*Stipendiary*) Justice in the said Court, to testify what he knows concerning the matter of the said complaint [or, *information*], and to be further dealt with according to law.

Dated this day of 19 .

(Signed)

Stipendiary Justice of the Peace.

FORM No. 8.

Warrant for apprehension of Witness in the first instance.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To all Police Officers,

Whereas complaint has been made [or, *information has been laid*] before me, the undersigned (*Stipendiary*) Justice for the District, for that C. D. (1) and it being made to (1) State concisely the substance of the complaint [or, *information*].
 appear to me, upon oath, that E. F., of is likely to (2) Or, informant, or, defendant.
 give material evidence on behalf of the complainant (2), and it is probable that the said E. F. will not attend to give evidence without being compelled so to do:—This is to command you forthwith to apprehend the said E. F., and to bring him at o'clock, m., on day, the day of 19, at before the (*Stipendiary*) Justice in the said Court, to testify what he knows concerning the matter of the said complaint [or, *information*], and to be further dealt with according to law.

Dated this day of 19 .

(Signed)

(*Stipendiary*) Justice of the Peace.

FORM No. 9.

Warrant of Commitment of Witness for refusing to be sworn or to give Evidence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant [or Informant]

v.

C. D., Defendant.

To all Police Officers and to the Keeper of Gaol (or Prison).

Whereas complaint has been made [or, *information has been laid*] before me, the undersigned (*Stipendiary*) Justice for the District, for that C. D. (1) and one E. F. now appearing (1) State concisely the substance of the complaint [or, *information*].
 before me in the said Court on the day of 19, at witness in that behalf, has refused so to do [or, *being duly sworn as a witness in the matter of the said complaint*] has refused to (2) Or, Affirmation.
answer a certain question concerning the said matter, which was put to him, without offering any just excuse for his refusal:—This is to command you, forthwith to convey the said E. F. to the (Gaol) Prison, and there deliver him to the Keeper of the said Prison, together with this warrant; And I hereby command you, the said Keeper, to receive the said E. F. into your custody in the said Prison, and there imprison him, for such his refusal for the term of days, unless he shall in the meantime consent to do what was so required of him; And for your so doing, this shall be your sufficient warrant.

Dated this day of 19 .

(Signed)

(*Stipendiary*) Justice of the Peace.

FORM No. 10.

Conviction for Penalty, and, in default of Payment, Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF,

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

The day of 19 .
 C. D. (hereinafter called the defendant) is this day convicted before
 the said Court for that he (1) And it is adjudged
 that the defendant do, for his said offence, forfeit and pay the sum of
 (2) to be paid and applied according to law ; And do
 also pay to the said A. B. the sum of for his costs in this
 behalf ; and if the said several sums be not paid forthwith (3)
 it is adjudged that the defendant be imprisoned in the
 (Gaol) Prison (4) for the term of
 unless the said several sums shall be sooner paid.
 (Signed)
 (Stipendiary) Justice of the Peace.

(1) State concisely the substance of the complaint [or, information].
 (2) State the penalty, and also the compensation, if any.
 (3) Or, on or before the day of 19 .
 (4) Add, if it be so, and there kept to hard labour.

FORM No. 11.

Conviction where the punishment is by Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

The day of 19 .
 C. D. (hereinafter called the defendant) is this day convicted before
 the said Court for that he (1) And it is
 adjudged that the defendant be, for his said offence, imprisoned in the
 (Gaol) Prison (2) for the term
 of And it is also adjudged that the defendant do
 pay to the said A. B. the sum of for his costs
 in this behalf ; And if the said sum for costs be not paid forthwith (3)
 then it is adjudged that the defendant be imprisoned
 in the (Gaol) Prison (2) for the term of
 to commence at and from the termination of
 his imprisonment aforesaid, unless the said sum for costs shall be sooner
 paid.
 (Signed)

(1) State concisely the substance of the complaint [or, information].
 (2) Add, if it be so, and there kept to hard labour
 (3) Or, on or before the day of 19

(Stipendiary) Justice of the Peace.

FORM No. 12.

Conviction for Penalty to be levied by Distress, and, in default of Distress, Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant [or Informant]

v.

C. D., Defendant.

The day of 19 .

C. D. (hereinafter called the defendant) is this day convicted before the said Court for that he (1) And it is adjudged (1) State concisely the substance of the complaint [or, information].
 that the defendant do, for his said offence, forfeit and pay the sum of (2) to be paid and applied according to law ; And do also (2) State the penalty, and also the compensation, if any.
 pay to the said A. B. the sum of for his costs in this behalf ; (3) Or, on or before the day of 19 .
 And if the said several sums be not paid forthwith (3) * it is ordered that the same be levied by distress and sale of the movable property of the defendant ; And, in default of sufficient distress,* it is adjudged that the defendant be imprisoned in the (Gaol) (4) Add, if it be so, and there kept to hard labour.
 Prison (4) for the term of unless the several sums, and all costs and charges of the said distress [and of the commitment] shall be sooner paid.

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 13.

Conviction where Defendant is discharged conditionally on giving Security to appear or to be of good behaviour.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

The day of 19 .

C. D. (hereinafter called the defendant) is this day convicted before the said Court for that he (1) But the Court being of opinion that the said offence was of so trifling a nature that it is inexpedient to inflict any punishment (2) (1) State concisely the substance of the complaint [or, information].
 and the defendant having given security, to the satisfaction of the Court, to appear for sentence when called upon (3) (2) Or, any other than a nominal punishment.
 he is discharged ; And it is ordered that the defendant do pay to the said A. B. the sum of for damages and the sum of (3) Or, to be of good behaviour.
 for costs [if so ordered forthwith (4) And if default is made [proceed as in conviction for penalty and, in default of payment, imprisonment.] (4) Or, on or before the day of 19 , or by instalments of, etc.

(Signed.)

(Stipendiary) Justice of the Peace.

* Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no movable property whereon to levy a distress, then, instead of the words between the asterisks,** say, "then, inasmuch as it has now been made to appear to the said Court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment [or that the defendant has no movable property whereon to levy the said sums by distress] it is adjudged" [etc., as above, to the end.]

FORM No. 14.

Order for Payment of Money, and, in default of Payment, Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

*A. B. Complainant,**v.**C. D. Defendant.*

A. B. having made a complaint that C. D. (hereinafter called the defendant) (1)

(1) State concisely the substance of the complaint.

And both the said parties having appeared before the said Court [or, the said *A. B. having appeared before the said Court, but the defendant, although duly called, not having appeared by himself his solicitor or his counsel; And it having been satisfactorily proved to the said Court, upon oath, that the defendant has been duly served with the summons, in this behalf, which required him to be and appear here on this day before the said Court to answer the said complaint, and to be further dealt with according to law*]; And now the Court having heard the matter of the said complaint, it is adjudged that the defendant do pay to the said *A. B.* the sum of _____ forthwith (2) And do also pay to the said *A. B.* the sum of _____ for his costs in this behalf; And if the said several sums be not paid forthwith (3) it is adjudged that the defendant be imprisoned in the _____ (Gaol) Prison (4) for the term of _____ unless the said several sums, and all costs and charges of the commitment, shall be sooner paid.

(2) Or, on or before the day of

19, or as the statute may require.

(3) Or, on or before the day of

19
(4) Add, if it be so, and there kept to hard labour.

Dated this _____ day of _____ 19 ____.

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 15.

Order for Payment of Money to be levied by Distress, and, in default of Distress, Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

*A. B., Complainant,**v.**C. D., Defendant.*

A. B. having made a complaint that C. D. (hereinafter called the defendant) (1)

(1) State concisely the substance of the complaint.

And both the said parties having appeared before the said Court, [or, the said *A. B. having appeared before the said Court, but the defendant, although duly called, not having appeared by himself or his solicitor or counsel; And it having been satisfactorily proved to the said Court, upon oath, that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before the said Court to answer the said complaint, and to be further dealt with according to law*]; And now the Court having heard the matter of the said complaint, it is adjudged that the defendant do pay the said *A. B.* the sum of _____ And do also pay to the said *A. B.* the sum of _____ for his costs in this behalf; And if the said

FORM No. 17.

Order to enter into recognizance to keep the Peace and be of Good behaviour.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

A. B. having made a complaint that *C. D.* (hereinafter called the defendant) (1) And both the said parties having appeared before the said Court, and the Court having heard the matter of the said complaint, it is adjudged that the defendant do forthwith to the satisfaction of enter into a recognizance in the sum of with surety in the sum of [each] to keep the peace and be of good behaviour towards His Majesty and all his liege people, and especially towards the said *A. B.*, for the term of And if the complainant fails to comply with this order, it is adjudged that he be imprisoned in the (Gaol) Prison for the term of unless he sooner complies with this order.

(1) State concisely the substance of the complaint.

[If costs are ordered proceed as follows:] And it is also adjudged that the defendant do pay to the said *A. B.* the sum of for his costs in this behalf; And if the said sum for costs be not paid forthwith (2) it is adjudged that the defendant be imprisoned in the said Prison (3) for the term of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the commitment, shall be sooner paid.

(2) Or, on or before the day of 19 , or by instalments of, etc.
(3) Add, if it be so, and there kept to hard labour.

Dated this day of 19 .
(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 18.

Order of Dismissal of Complaint or Information.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

A. B. having made a complaint, [or, laid an information], that *C. D.* (hereinafter called the defendant) (1) And both the said parties having appeared before the said Court in order that it should hear and determine the said complaint [or, information] [or, the defendant having appeared before the said Court, but the said *A. B.* although duly called, not having appeared by himself or his counsel] whereupon the matter of the said complaint [or, information] being by the said Court duly considered, [it manifestly appears to the said Court that the said complaint [or, information] is not approved, and^a] the Court therefore dismisses the same [and adjudges that the said *A. B.* do pay to the

(1) State concisely the substance of the complaint [or, information]

^a If the complainant [or informant] does not appear, these words may be omitted.

defendant the sum of _____ as compensation for his trouble and
 expense in this behalf, and also the sum of _____ for his costs
 incurred by him in his defence in this behalf; And if the said several sums
 be not paid forthwith (2) it is adjudged that the said (3) Or, on or
 A. B. be imprisoned in the (Gaol) Prison (3) for the before the
 term of _____ unless the said several sums, and all costs 19 day of
 and charges of the commitment, shall be sooner paid.] (3) Add, if it
 Dated this _____ day of _____ 19 . there kept to
 (Signed.) hard labour.
 (Stipendiary) Justice of the Peace.

FORM No. 19.

Order dismissing Complaint or Information, and directing Defendant to pay Damages.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant.]

v.

C. D., Defendant.

C. D. (hereinafter called the defendant) has been charged on the com-
 plaint [or, information] of A. B. for that he (1)
 And the matter of the said complaint [or, information] being by the said
 Court duly considered, and the said Court being of opinion that, though
 the said complaint [or, information] is proved, the offence was of so trifling
 a nature that is is inexpedient to inflict any punishment, the Court there-
 fore dismisses the said complaint [or, information].

(1) State con-
 cisely the sub-
 stance of the
 complaint [or,
 information].

[If payment of damages or costs is ordered, proceed as follows :]

And it is ordered that the defendant do pay to the said A. B.
 for damages, and _____ for costs; And if the said several sums be not
 paid [proceed as in Form No. 18.]

Dated this _____ day of _____ 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 20.

Warrant of Distress on Conviction for Penalty.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To all Police Officers.

Whereas C. D. (hereinafter called the defendant) was this day (1) Or, on the
 (1) convicted before the said Court for _____ day of
 , 19

(2) State the substance of the complaint [or, information], as in the conviction.

that he (2)

And it was thereby adjudged that the defendant should, for such his offence, forfeit and pay [*etc., as in the conviction*], and should also pay to the said A. B. the sum of _____ for his costs in that behalf; And it was thereby ordered that if the said several sums should not be paid [*forthwith*], the same should be levied by distress and sale of the movable property of the defendant; And it was thereby also adjudged that, in default of sufficient distress, the defendant should be imprisoned in the _____ (Gaol) Prison [*and there kept to hard labour*] for the term of _____ unless the said several sums, and all costs and charges of the said distress [*and of the commitment*] should be sooner paid; And whereas the defendant being so convicted as aforesaid, and being [*now*] required to pay the said sums of _____ and _____ has not paid the same or any part thereof, but therein has made default:—This is to command you forthwith to make distress of the movable property of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of fifteen dollars, the tools and implements of his trade); And if, within the space of* _____ days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said movable property by you distrained, and pay the money arising therefrom to [*the Magistrate or other person specified*] in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the defendant; And if no such distress can be found, then to certify the same to the said Court, in order that further proceedings may be had according to law.

Dated this

day of

19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 21.

Warrant of Distress on Order for Payment of Money.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Police Officers.

(1) State the substance of the complaint, as in the order.

Whereas on the _____ day of _____ 19 _____, complaint was made before me, the undersigned Stipendiary Justice for the _____ District, for that C. D. hereinafter called the defendant (1) _____ and both the said parties having appeared before the said Court [*or as in the order*]; And the said Court having considered the matter of the said complaint, it was adjudged that the defendant should pay to the said A. B. the sum of _____ and should also pay to the said A. B. the sum of _____ for his costs in that behalf; And it was thereby ordered that if the said several sums should not be paid on or before the _____ day of _____ 19 _____, the same should be levied by distress and

* NOTE.—The property is not to be sold until after the expiration of three days next after the day on which it is seized, unless the defendant otherwise consents in writing.

sale of the movable property of the defendant ; And it was thereby also adjudged that, in default of sufficient distress in that behalf, the defendant should be imprisoned in the (Gaol) Prison [and there kept to hard labour] for the term of unless the said several sums, and all costs and charges of the distress [and of the commitment] should be sooner paid ; And whereas the time by the said order appointed for the payment of the said several sums of and has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default :—This is to command you forthwith to make distress of the movable property of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of fifteen dollars, the tools and implements of his trade) ; And if, within the space of * days after the making of such distress, the said last-mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said movable property by you distrained, and pay the money arising therefrom to [the Justice or other person specified] in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the defendant ; And if no such distress can be found, then to certify the same to the said Court, in order that further proceedings may be had according to law.

Dated this day of 19 .

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 22.

Warrant of Distress for sum due under recognizance declared to be forfeited.

TRINIDAD AND TOBAGO.

COUNTY OF

To all Police Officers.

Whereas was, by his recognizance entered into the day of 19 , bound in the sum of the condition of his recognizance being that should (1) And whereas default having been made in compliance with the said condition, the said recognizance was, on the day of 19 , declared by the said Court to be forfeited ; (1) State the condition of the recognizance.
And whereas the said has made default in payment of the sum due under the said recognizance :—This is to command you forthwith to make distress of the movable property of the said (except the wearing apparel and bedding of him and his family, and, to the value of fifteen dollars, the tools and implements of his trade,) and if, within the space of † days next after the making of such distress, the sum of being the sum stated at the foot of

* NOTE.—The property is not to be sold until after the expiration of three days next after the day on which it is seized, unless the defendant otherwise consents in writing.

† NOTE.—The property is not to be sold until after the expiration of three days next after the day on which it is seized, unless the owner otherwise consents in writing.

this warrant to be due under the said recognizance, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid then to sell the said movable property by you distrained, and pay the money arising therefrom to [the Justice or other person specified] in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the said ; And if no such distress can be found, then to certify the same to the said Court, in order that further proceedings may be had according to law.

Dated this day of 19 .

(Signed)

(Stipendiary) Justice of the Peace.

					\$	c.
Amount due under recognizance		
Paid		
Remaining due		
Costs of issuing warrant		
Total amount to be levied		

FORM NO. 23.

Warrant of Distress for Sum due under Recognizance adjudged to be forfeited by Conviction of Principal.

TRINIDAD AND TOBAGO.

COUNTY OF

To all Police Officers.

(1) State the condition of the recognizance.

(2) State the offence concisely.

Whereas C. D. (hereinafter called the defendant) was, by his recognizance entered into the day of 19 , bound in the sum of the condition of the recognizance being that the defendant should (1) And whereas the defendant having been convicted of the offence of having (2) being an offence which is in law a breach of the said condition, it was, on the day of 19 , adjudged by the said Court that the said recognizance was forfeited, and that the defendant should pay to [the Justice or other person specified] the said sum of and should also pay to the sum of for costs; And it was ordered that the said sums should be paid [as in the order], and that, if default should be made in payment according to the said adjudication and order, the sums due thereunder should be levied by distress and sale of the movable property of the defendant; And whereas default has been made in payment according to the said adjudication and order:—This is to command you [proceed as in last Form].

Dated this day of 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 24.

Warrant to remand Defendant when apprehended.

TRINIDAD AND TOBAGO.

COUNTY OF

*A. B., Complainant, [or Informant]**v.**C. D., Defendant.*

To all Police Officers and to the Keeper of (Gaol)
Prison.

Whereas on the day of 19 complaint, was made [or, *information was laid*] before me, the undersigned *Stipendiary Justice* for the District, for that *C. D.* (1) (1) State concisely the substance of the complaint [or *information*].
And whereas the said *C. D.* has been apprehended under and by virtue of a warrant upon such complaint [or, *information*], and is now brought before me as such Justice as aforesaid :—This is to command you forthwith to convey the said *C. D.* to the (Gaol) Prison, and there deliver him to the Keeper of the said Prison, together with this warrant ; And I hereby command you, the said Keeper, to receive the said *C. D.* into your custody in the said Prison, and there safely keep him until day, the day of 19 , when you are hereby required to cause him, the said *C. D.*, to be conveyed and be at at o'clock, m. of the same day, before the (*Stipendiary*) Justice in the said Court, to answer the said complaint [or, *information*], and to be further dealt with according to law.

Dated this day of 19 .

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 25.

Warrant of Commitment of Defendant for Safe Custody during an Adjournment.

TRINIDAD AND TOBAGO.

*A. B. Complainant, [or Informant],**v.**C. D., Defendant.*

To all Police Officers and to the Keeper of (Gaol)
Prison.

Whereas on the day of 19 , complaint was made [or, *information was laid*] before me, the undersigned (*Stipendiary*) Justice for the District, for that *C. D.* (1) (1) State concisely the substance of the complaint [or, *information*].
And whereas the hearing of the same is adjourned to day, the day of 19 , at o'clock m.,
and it is necessary that the said *C. D.* should, in the *information*.

meantime, be kept in safe custody :—This is to command you forthwith to convey the said *C. D.* to the (Gaol) Prison, and there deliver him to the Keeper of the said (Gaol) Prison, together with this warrant ; And I hereby command you, the said Keeper, to receive the said *C. D.* into your custody in the said (Gaol) Prison, and there safely keep him until the said day of 19 , when you are hereby required to cause him, the said *C. D.*, to be conveyed and be, at the time and place to which the said hearing is so adjourned as aforesaid, before the Stipendiary Justice in the said Court, to answer further the said complaint [or information], and to be further dealt with according to law.

Dated this day of 19 .
(Signed)
(Stipendiary) Justice of the Peace.

FORM No. 26.

Warrant of Commitment on Conviction for Penalty in the first instance

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,[or Informant]

v.

C. D., Defendant.

To all Police Officers, and to the Keeper of (Gaol) Prison.

C. D. (hereinafter called the defendant) was this day convicted before the said Court for that he (1) And it was thereby adjudged that the defendant should, for such his offence, forfeit and pay the sum of [etc., as in the conviction], and should also pay to the said *A. B.* the sum of for his costs in that behalf ; And it was further adjudged that if the said several sums should not be paid forthwith (2) the defendant should be imprisoned in the (Gaol) Prison (3) for the term of unless the said several sums [and the costs and charges of the commitment] should be sooner paid ; And whereas the time by the said conviction appointed for the payment of the said several sums has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default :— This is to command you to take the defendant and him safely to convey to the said (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant ; And I hereby command you, the said Keeper to receive the defendant into your custody in the said (Gaol) Prison and there imprison him (4) for the term of unless the said several sums [and the costs and charges of the commitment, amounting to the further sum of] shall be sooner paid ; And for your so doing, this shall be your sufficient warrant.

(1) State the substance of the complaint [or, information,] as in the conviction.

(2) Or, on or before the day of 19 .

(3) Add, if it be so, and there kept to hard labour.

(4) Add, if it be so, and keep him to hard labour.

Dated this day of 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 27.

Warrant of Commitment on Conviction where the punishment is by Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To all Police Officers, and to the Keeper of (Gaol)
Prison.

C. D. (hereinafter called the defendant) was this day convicted before the said Court for that he (1) And it was thereby adjudged that the defendant should, for such his offence, be imprisoned in the (Gaol) Prison (2) for the term of (1) State the substance of the complaint [or, information], as in the conviction. (2) Add, if it be so, and there kept to hard labour (3) Add, if it be so, and keep him to hard labour. (3)
:—This is to command you to take the defendant and him safely to convey to the said (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant ; And I hereby command you, the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison, and there imprison him (3) for the term of And for your so doing, this shall be your sufficient warrant

Dated this day of 19 .

(Signed)

(*stipendiary*) Justice of the Peace.

FORM No. 28.

Warrant of Commitment on Order in the first instance.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant,

To all Police Officers, and to the Keeper of (Gaol)
Prison.

Whereas on the day of 19 , complaint was made before me, the undersigned (*Stipendiary*) Justice for the District, for that *C. D.* (1) and (1) State the substance of the complaint, as in the order. both the said parties having appeared before the said Court [*or as it may be in the order*] ; And the said Court having considered the matter of the said complaint, it was adjudged that the said *C. D.* should pay to the said *A. B.* the sum of and should also pay to the said *A. B.* the sum of for his costs in that behalf ; And it was thereby also ordered that if the said several sums should not be paid on or before the day of 19 , the said *C. D.*

(2) Add, if it
be so, and
there kept to
hard labour.

should be imprisoned in the (Gaol) Prison (2)
for the term of unless the said several sums should
be sooner paid ; And whereas the time by the said order appointed for the
payment of the said several sums of money has elapsed, but the said *C. D.*
has not paid the same or any part thereof, but therein has made default :—
This is to command you, to take the said *C. D.* and him safely to
convey to the said (Gaol) Prison, and there deliver him to the Keeper
thereof, together with this warrant ; And I hereby command you, the said
Keeper, to receive the said *C. D.* into your custody in the said (Gaol)
Prison, and there imprison him (3) for the term of
unless the said several sums [and the costs and charges of the commitment
amounting to the further sum of] shall be sooner paid ; And
for your so doing, this shall be your sufficient warrant.

(3) Add, if it
be so, and
keep him to
hard labour.

Dated this day of 19 .

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 29.

Warrant of Commitment pending Return to Warrant of Distress.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To all Police Officers, and to the Keeper of (Gaol) Prison.

(1) State the
substance of
the complaint
[or, informa-
tion], as in the
conviction.

C. D. (hereinafter called the defendant, was, on the
day of 19 , convicted before the said Court for that he (1)
And whereas, default having been made in payment according to the said
adjudication and order, a warrant of distress has been issued against the
defendant in pursuance of the said conviction, but no return has been
made thereto ; And whereas the defendant has not given security, to the
satisfaction of the Court, for his appearance at the time and place appointed
for the return of the said warrant of distress :—This is to command you,
to take the defendant and him safely to convey to the (Gaol)
Prison, and there deliver him to the Keeper thereof, together with this
warrant ; And I hereby command you, the said Keeper, to receive the defen-
dant into your custody in the said (Gaol) Prison, and there safely keep
him until day, the day of 19 .
being the day appointed for the return of the said warrant of distress,
unless he previously enters into a recognizance in the sum of
with suret in the sum of [each] conditioned for his
appearance on that day and on that day, if he has not then been released by
virtue of having entered into such recognizance, to cause him to be conveyed
and be at at o'clock, m., before the (Stipendiary)
Justice in the said Court, to be further dealt with according to law.

Dated this day of 19 .

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 30.

Warrant of Commitment for Want of Distress.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or informant]

v.

C. D., Defendant.

To all Police Officers, and the Keeper of (Gaol) Prison.

Whereas, [etc., as in one of the warrants of distress in Part V. to "has made default" and then thus:] And whereas afterwards, on the day of 19 , I, the said (*Stipendiary*) Justice, issued a warrant to commanding him to levy the said sums of and by distress and sale of the movable property of the defendant; And whereas it appears to me, as well by the return of the said Constable to the said warrant of distress as otherwise, that the said Constable has made diligent search for the movable property of the defendant, but that no sufficient distress whereon to levy the said several sums could be found:—This is to command you, the said Constable, to take the defendant, and him safely to convey to the (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant; And I hereby command you, the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison, and there imprison him (1) for the term of unless the said several sums, and all costs and charges of the said distress [and of the commitment] amounting to the further sum of shall be sooner paid; And for your so doing, this shall be your sufficient warrant. (1) Add, if it be so, and keep him to hard labour.

Dated this day of 19 .

(Signed)

(*tipendiary*) Justice of the Peace.

FORM No. 31.

Warrant of Commitment on Order where the disobeying of it is punishable by Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. , Defendant.

To all Police Officers, and to the Keeper of (Gaol) Prison.

Whereas on the day of 19 , complaint was made before me, the undersigned (*Stipendiary*) Justice for the District for that C. D. (1) And both the said parties (1) State the substance of the complaint, as in the order. having appeared before the said Court [or as it may be in the order]; And the said Court having considered the matter of the said complaint, it was adjudged that the defendant should [etc., as in the order] And it was also adjudged that if, upon a copy of a minute of the said order being served upon the defendant, either personally or by leaving the same for him at his

last or most usual place of abode, he should refuse or neglect to obey the same, in such case the defendant should for such his disobedience, be imprisoned in the (Gaol) Prison (2) for the term of [unless the said order should be sooner obeyed]; And it was also adjudged that the defendant should pay to the said A. B. the sum of for his costs in that behalf; And it was ordered that if the said sum for costs should not be paid forthwith (3) the defendant should be imprisoned in the said (Gaol) Prison (2) for the term of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs [and the costs and charges of the commitment] should be sooner paid; And whereas it is now proved to me that, after the making of the said order, a copy of a minute thereof was duly served upon the defendant, but he then refused [or neglected] to obey the same, and has not as yet obeyed the same; And whereas the time appointed by the said order for the said payment of the said sum for costs has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default:—This is to command you, to take the defendant and him safely to convey to the said (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant; And I hereby command you, the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison, and there imprison him (4) for the term of And further, on the termination of his imprisonment aforesaid, to imprison him (4) for the term of unless the said sum for costs [and the costs and charges of the commitment, amounting to the further sum of] shall be sooner paid: And for your so doing, this shall be your sufficient warrant.

Dated this day of 19 .

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 32.

Warrant of Commitment for Non-Payment of Costs upon Order of Dismissal of Complaint or Information.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To all Police Officers, and to the Keeper of (Gaol) Prison,

Whereas on the day of 19 , complaint was made [or, information was laid] before me, the undersigned (Stipendiary) Justice for the District, for that O. D. (1) and both the said parties having appeared before the said Court [or as it may be in the order]; And thereupon the matter of the said complaint [or, information] having been by the said Court duly considered, and it manifestly appearing to the said Court that the said complaint [or, information] was not proved, the said Court therefore dismissed the same, and

(1) State the substance of the complaint [or, information], as in the order.

adjudged that the said *A. B.* should pay to the said *C. D.* the sum of

for his costs incurred by him in his defence in that behalf; And it was ordered that if the said sum for costs should not be paid forthwith

(2) the said *A. B.* should be imprisoned in the

(Gaol) Prison (3) for the term of

unless the said sum should be sooner paid; And whereas the time appointed

by the said order for the payment of the said sum has elapsed, but the said

A. B. has not paid the same or any part thereof, but therein has made

default:—This is to command you, to take the said *A. B.* and him safely

to convey to the said (Gaol) Prison, and there deliver him to the Keeper

thereof, together with this warrant; And I hereby command you, the said

Keeper, to receive the said *A. B.* into your custody in the said (Gaol)

Prison, and there imprison him (4) for the term of

unless the said sum [and the costs and charges

of the commitment, amounting to the further sum of]

shall be sooner paid; And for your so doing, this shall be your sufficient

warrant.

Dated this

day of

19 .

(Signed)

(*Stipendiary*) Justice of the Peace.

FORM No. 33.

*Recognizance for Appearance of Defendant where the Case is adjourned
or not at once proceeded with.*

TRINIDAD AND TOBAGO.

COUNTY OF

Be it remembered that on the day of 19 ,
C. D., of and *G. H.*, of personally came

before me, the undersigned (*Stipendiary*) Justice for the

District, and severally acknowledged themselves to owe to Our Sovereign

Lord the King the several sums following, namely, the said *C. D.*, as

principal, the sum of and the said *G. H.*, as surety,

the sum of to be levied on their several movable and

immovable property respectively, if the said *C. D.* fails in the condition

hereon indorsed.

Taken and acknowledged the day and year first above mentioned
before me.

(Signed.)

(*Stipendiary*) Justice of the Peace.

Condition indorsed.

The condition of the within written recognizance is such that if the
within-bounden *C. D.* appears on day, the day of

19 , at o'clock, m., at

before (the *Stipendiary*) Justice in the said Court, to answer further the

complaint made [or, the information laid] against him by *A. B.*, and to be

further dealt with according to law, then the said recognizance shall be

void, but otherwise shall remain in full force.

FORM No. 34.

Notification to be made to Defendant and his Surety on entering into such Recognizance.

Take notice that you, *C. D.*, are bound, as principal, in the sum of _____ and you, *G. H.*, as surety, in the sum of _____ that you, *C. D.*, personally appear on _____ day, the day of _____ 19____, at _____ o'clock, _____ m., at _____ before the *Stipendiary* Justice in the said Court to answer further a certain complaint [or, *information*] of *A. B.* the further hearing of which was adjourned to the said time and place, and to be further dealt with according to law, and unless you *C. D.*, appear accordingly, the recognizance entered into by you, *C. D.*, as principal, and by you, *G. H.*, as his surety, will forthwith be levied on you severally.

Dated this _____ day of _____ 19____.

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 35.

Recognizance for Appearance, or for doing some other thing in, to, or before, or in a Proceeding in a Magistrate's Court.

TRINIDAD AND TOBAGO.

COUNTY OF _____

We, the undersigned *C. D.*, of _____ *G. H.*, of _____ and *J. K.*, of _____ severally acknowledge ourselves to owe to Our Sovereign Lord the King the several sums following, namely, the said *C. D.*, as principal, the sum of _____ and the said *G. H.* and *J. K.*, as sureties, the sum of _____ each, to be levied on our several movable and immovable property respectively, if the said *C. D.* fails in the condition hereon indorsed.

(Signed, *where not taken orally*.)

C. D.
G. H.
J. K.

Taken [*orally*] before me this _____ day of _____ 19____.

(Signed.)

(*Stipendiary*) Justice of the Peace.

NOTE.—Where the recognizance is taken orally, omit the words "the undersigned and insert the word "orally" after "taken".

Condition indorsed.

The condition of the within written recognizance is such that if the within bounden *C. D.* appears on _____ day, the day of _____ 19____, at _____ o'clock _____ m., at _____ before the (*Stipendiary*) Justice in the said Court, to answer [*further*] the complaint made [or, *the information laid*] against him by *A. B.* and to be further dealt with according to law, [*or, appears before the said Court sitting at _____ for sentence when called upon, or as the case may be*] then the said recognizance shall be void, but otherwise shall remain in full force.

FORM No. 36.

Recognizance to keep the Peace and be of Good behaviour, or not to do or commit some act or thing.

TRINIDAD AND TOBAGO.

COUNTY OF

We the undersigned, *C. D.*, of *G. H.*, of
and *J. K.*, of severally acknowledge ourselves to owe to Our
Sovereign Lord the King the several sums following, namely, the said *C. D.*,
as principal, the sum of and the said *G. H.*, and *J. K.*, as
sureties, the sum of each to be levied on our several movable
and immovable property respectively, if the said *C. D.* fails in the condition
hereon indorsed.

(Signed, *where not taken orally*)

C. D.

G. H.

J. K.

Taken [*orally*] before me this day of 19 .

(Signed.)

(*Stipendiary*) Justice of the Peace.

NOTE.—Where the recognizance is taken orally, omit the words “the undersigned,” and insert the word “*orally*” after “taken.”

Condition indorsed.

The condition of the within written recognizance is such that if the
within bounden *C. D.* keeps the peace and is of good behaviour towards
His Majesty and all his liege people, and especially towards *A. B.* of
for the term of now next ensuing, [*or*,
abstains from doing the thing forbidden, or as the case may be] then the
said recognizance shall be void, but otherwise shall remain in full force.

FORM No. 37.

*Declaration of Forfeiture of Recognizance**

TRINIDAD AND TOBAGO.

COUNTY OF

The day of 19 .

The said *C. D.* not having appeared [*or as the case may be*] in accordance with the said condition, this Court declares that the within written recognizance is forfeited.

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 38.

Summons to Person bound by Recognizance which is alleged to have been forfeited by Conviction of Principal.

TRINIDAD AND TOBAGO.

COUNTY OF

To of

You are hereby summoned to appear on day, the
day of 19 , at o'clock m., at

To be indorsed on the recognizance

before the (*Stipendiary*) Justice in the said Court, to show cause why the recognizance entered into the day of 19 , whereby you are bound to pay the sum of should not be adjudged to be forfeited, and why you should not be adjudged to pay that sum.

Dated this day of 19 .

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 39.

Adjudication of Forfeiture of Recognizance where Person bound as Principal has been convicted of an Offence which is a Breach of the Condition.

TRINIDAD AND TOBAGO.

COUNTY OF

The day of 19 .

C. D. (hereinafter called the defendant) was, by his recognizance entered into the day of 19 , bound in the sum of the condition of the said recognizance being

(1) State the condition of the recognizance.

(2) State the offence concisely.

(3) Or, on or before the day of 19 .

(4) Add, if it be so, and there kept to hard labour.

that the defendant should (1) And proof having been given that the defendant has been convicted of the offence of having (2) being an offence which is in law a breach of the condition of the said recognizance :—Therefore it is adjudged that the said recognizance is forfeited, and that the defendant do pay to [*the Justice or other person specified*] the said sum of and do also pay to the sum of for costs ;

And it is ordered that the said sums be paid forthwith (3) And if default is made in payment according to this adjudication and order,* it is ordered that the said sums be levied by distress and sale of the movable property of the defendant ; And, in default of sufficient distress*, it is adjudged that the defendant be imprisoned in the (*Gaol*) Prison (4) for the term of unless the said several sums, and all costs and charges of the said distress [*and of the commitment*], shall be sooner paid.

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 40.

Oral or Written Acknowledgement of Undertaking to perform Condition of Forfeited Recognizance.

TRINIDAD AND TOBAGO.

COUNTY OF

C. D., was, by his recognizance entered into the day of 19 , bound in the sum of the condition of the recognizance being that the said *C. D.* Should (1) And default having been made in performance of this condition, the recognizance

(1) State the condition of the recognizance.

*Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no movable property whereon to levy a distress, then, instead of the words between the asterisks * * say, "then, inasmuch as it has now been made to appear to the said Court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment, [or, that the defendant has no movable property whereon to levy the said sums by distress], It is adjudged" [etc., as above, to the end].

was, on the day of 19 , declared to be forfeited, and the said *C. D.* not having paid the said sum, a warrant of distress was, on the day of 19 , issued for recovery thereof, but no movable property has been sold under the warrant; And the said *C. D.* has applied to the said Court to cancel or mitigate the forfeiture :— Now, therefore, I, the said *C. D.*, as principal, and we, *G. H.*, of and *J. K.*, of as sureties [or, *I, G. H.*, of as surety] hereby undertake that the condition of the said recognizance shall be duly performed [*and also that the said C. D. shall, on or before the day of 19 , pay the sum of for costs incurred in respect of the said forfeiture ;*] And I, the said principal, and we, the said sureties [or, *I, the said surety*] hereby severally acknowledge ourselves bound to forfeit and pay to [*the Justice or other person specified*] the sum of in case the said principal fails to perform the condition of the said recognizance.

(Signed, *where not taken orally*)

C. D.

G. H.

J. K.

Taken [*orally*] before me this day of 19 .
(Signed.)
(*Stipendiary*) Justice of the Peace.

FORM No. 41.

*Order cancelling or mitigating Forfeiture of Recognizance.**

TRINIDAD AND TOBAGO.

COUNTY OF

A warrant of distress was, on the day of 19 , issued for levying the sum of declared to be forfeited under the within written recognizance, but no movable property has been sold thereunder; And the said has applied to this Court to cancel [or, *mitigate*] the forfeiture of the said recognizance, and has given security, to the satisfaction of the court, for the future performance of the condition of the said recognizance, and has paid [or, *given security for payment of*] the costs incurred in respect of the forfeiture thereof [*or insert such other conditions as the Court may think just*]:—Therefore the said forfeiture is hereby cancelled [or, *mitigated to the sum of*].

Dated this day of 19 .
(Signed.)
(*Stipendiary*) Justice of the Peace.

FORM No. 42.

Notice to Parent or Guardian of Child charged with Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

To of
C. D. has been charged for that he (1)

and he has (1) State concisely the substance of the complaint [or, information.]

* To be indorsed on the recognizance.

been remanded until the sitting of the said Court on _____ day, the
 day of _____ 19____, at _____
 (2) Or, And it has been alleged that you are his parent (2) If you
 guardian. desire that he shall be tried by a jury, and object to his case being dealt
 with summarily, you must attend at the hearing of the complaint [or,
information] before the said Court at that time and place.
 Dated this _____ day of _____ 19____.
 (Signed)
 (Stipendiary) Justice of the Peace.

FORM No. 43.

Summary Conviction of Child for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

The _____ day of _____ 19____.
 C. D., (hereinafter called the defendant) being a child within the
 meaning of the Summary Conviction Offences (Procedure) Ordinance,
 and above the age of seven years and of sufficient capacity to commit
 crime, and having been charged for that he (1)
 (1) State concisely the substance of the complaint [or, *information*].
 (2) Or, And _____ the parent (2) _____ of the defendant*
 guardian. having been informed by the Court of his right to have the defendant tried
 by a Jury, and not having objected to the case being dealt with summarily
 under the said Ordinance, and the Court thinking it expedient so to deal
 with the case:—The defendant is this day convicted before the said
 (3) Or, be, Court of the said offence; and it is adjudged that he do, (3)
 for his said offence, [*proceed as in other forms of summary conviction. If
 whipping is ordered, insert, either in addition to or in substitution for any
 other punishment, as the case may be:*] And it is adjudged that the defen-
 dant, being a male child, shall, as soon as practicable, undergo corporal
 punishment.

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 44.

Order of Dismissal of Child dealt with summarily for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

C. D., (hereinafter called the defendant), being a child within the
 meaning of the Summary Conviction Offences (Procedure) Ordinance,
 and having been charged on the complaint [or, *information*] of A.B.,

* Omit the words between asterisks if the parent or guardian is absent, and substitute for the
 said words "not having been present at the hearing of the charge, but the Court thinking it
 expedient that the case be dealt with summarily."

of for that he (1) And the Court having, in (1) State con-
the exercise of its jurisdiction, dealt with the case summarily under the cisely the sub-
said Ordinance; And the matter of the said complaint [or, *information*] stance of the
being by the said Court duly considered, it manifestly appears to the said complaint [or,
Court that the said complaint [or, *information*] is not proved :—Therefore *information*].
the Court doth hereby dismiss the said complaint [or, *information*] [*If*
costs, or costs and compensation, are ordered, proceed as in Form No. 18.]

Dated this day of 19 .
(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 45.

Summary Conviction (on Plea of Guilty) of Adult for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant*, [or Informant]

v.

C. D., *Defendant*.

The day of 19 .

C. D., (hereinafter called the defendant), having been charged for that
he (1) and having pleaded guilty to the said charge; (1) State con-
And the Court being satisfied that the case is one which may properly be cisely the sub-
dealt with summarily under the Summary Conviction Offences (Procedure) stance of the
Ordinance :—The defendant is this day convicted before the said Court complaint [or,
of the said offence, and it is adjudged that he be, for his said offence, *information*].
imprisoned in the (Gaol) Prison (2) for the (2) Add, if it
term of [*If costs are ordered, proceed as in conviction for be so, and*
penalty and, in default of payment, imprisonment.] *there kept to*
hard labour.

(Signed)

(*Stipendiary*) Justice of the Peace.

FORM No. 46.

Summary Conviction (by Consent) of Adult for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant*, [or Informant]

v.

C. D., *Defendant*,

The day of 19 ,

C. D., (hereinafter called the defendant), having been charged for that
he (1) and having been informed by the Court of (1) State con-
his right to be tried by a jury, and having consented to be dealt with cisely the sub-
summarily under the Summary Conviction Offences (Procedure) Ordinance, stance of the
and the Court thinking it expedient so to deal with the case :—The complaint [or,
defendant is this day convicted before the said Court of the said offence, *information*].
and it is adjudged that he do (2) the said offence, (2) Or, be.
[*proceed as in ordinary forms of summary conviction.*]

(Signed)

(*Stipendiary*) Justice of the Peace.

FORM No. 47.

Order of Dismissal of Adult dealt with summarily for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, [or Informant]

v.

C. D., Defendant.

C. D. (hereinafter called the defendant), having been charged on the complaint [or information] of *A. B.* for that he (1) and having been informed by the Court of his right to be tried by a jury, consented to be dealt with summarily under the Summary Conviction Offences (Procedure) Ordinance, and the Court having thought it expedient so to deal with the case; And the matter of the said complaint [or, information] having been by the said Court duly considered, it manifestly appears to the said Court that the said complaint [or, information] is not proved:—Therefore the Court doth hereby dismiss the said complaint [or, information.] [If costs, or costs and compensation, are ordered, proceed as in Form No. 18.]

Dated this day of 19 .

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 48.

Conviction where Defendant is released on giving Security to appear and receive Adjudication of Punishment, if called upon.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant [or Informant]

v.

C. D., Defendant.

The day of 19 .

C. D., (hereinafter called the defendant) is this day convicted before the said Court for that he (1) And no previous conviction being proved against the defendant, it now appears to the said Court that having regard to (2) it is expedient that the defendant be released on probation of good conduct; It is therefore adjudged and ordered that the defendant be released on his entering into a recognizance in the sum of with suret in the sum of [each] to appear before the (Stipendiary) Justice in the said Court, and receive adjudication of punishment for his said offence, if called upon within a period of from the date of this conviction, and in the meantime to keep the peace and be of good behaviour.

(1) State concisely the substance of the complaint [or, information].
(2) The youth character, or, antecedents of the defendant; the trivial nature of the offence; or the extenuating circumstances under which the offence was committed.

(Signed)

(Stipendiary) Justice of the Peace.

FORM No. 49.

Recognizance for Appearance of Defendant to receive adjudication of Punishment, if called upon.

TRINIDAD AND TOBAGO.

COUNTY OF

We, the undersigned, *C. D.*, of *G. H.*, of
and *J. K.*, of severally acknowledge ourselves to owe to
Our Sovereign Lord the King the several sums following, namely, the said
C. D., as principal, the sum of and the said *G. H.* and *J. K.* as
sureties, the sum of each, to be levied on our several movable
and immovable property respectively, if the said *C. D.* fails in the condition
hereon endorsed.

(Signed, *where not taken orally.*)*C. D.**G. H.**J. K.*Taken [*orally*] before me this day of 19

(Signed.)

Condition indorsed.

The condition of the within written recognizance is such that if the
within bounden *C. D.* shall, if called upon within a period of
from this date, appear before the (*Stipendiary*) Justice in the said Court,
and receive adjudication of Punishment on a conviction before the said
Court, dated the day of 19, then the said
recognizance shall be void, but otherwise shall remain in full force.

FORM No. 50.

Information that Defendant has failed to observe Conditions of Recognizance.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Informant.

v.

C. D., Defendant.

The information of *A. B.*, of who saith on his oath (1)
that *C. D.*, of was, on the day of 19, (1) Or, *affirma-*
convicted before the (*Stipendiary*) Justice for that he (2) (2) Recite the
and the said *C. D.*, having duly entered into such conviction.
recognizance, was released accordingly; and afterwards, before the expira-
tion of the said period of to wit, on the of
19, the said *C. D.* failed to observe the conditions of
the said recognizance in that he (3) And the said *A. B.* prays (3) State in
that the said *C. D.* may be apprehended and brought before the (*Stipen-* what respect
diary) Justice in the said Court to receive adjudication of the defendant
punishment on the said conviction (4) has failed to
(Signed.) Informant. observe the
conditions of
the recogni-
zance.
(4) Or, to be
dealt with
according to
law.

Taken before me this day of 19, at

(Signed.)

}

(Stipendiary) Justice of the Peace.

FORM No. 51.

Warrant of Apprehension where Defendant has failed to observe Conditions of Recognizance.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Informant,

v.

C. D., Defendant.

To Police [or other] Constable.

(1) State concisely the substance of the information.

Whereas information has this day being laid before me, the undersigned (*Stipendiary*) Justice for that C. D. (1) and oath having been made before me substantiating the matter of the said information :—This is to command you forthwith to apprehend the said C. D., and to bring him before the (*Stipendiary*) Justice in the said Court to answer the said information, and to be further dealt with according to law.

Dated this day of 19 .

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 52.

Warrant to Remand Defendant when apprehended.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Informant,

v.

C. D., Defendant.

To all Police Officers and to the Keeper of (*Gaol*) Prison.

(1) State concisely the substance of the information.

Whereas information has been laid before me, the undersigned (*Stipendiary*) Justice, for that C. D. (1) And the said C. D. having been this day brought before the said Court under and by virtue of a warrant issued by me in that behalf, and the said Court not having power to make an adjudication of punishment against the said C. D. :—This is to command you forthwith to convey the said C. D., to the (*Gaol*) Prison, and there deliver him to the Keeper thereof, together with this warrant ; And I hereby command you, the said Keeper, to receive the said C. D. into your custody in the said (*Gaol*) Prison, and there safely keep him until day, the day of 19 , when you are hereby required to cause him, the said C. D., to be conveyed and be at at o'clock, m. of the same day, before the (*Stipendiary*) Justice in the Court, to answer the said information, and to be further dealt with according to law.

Dated this day of 19 .

(Signed.)

(*Stipendiary*) Justice of the Peace.

FORM No. 53.

Recognizance for Appearance of Defendant to receive Adjudication of Punishment.

TRINIDAD AND TOBAGO.

COUNTY OF

We the undersigned, *C. D.* of *G. H.*, of
and *J. K.*, of severally acknowledge ourselves to owe to
Our Sovereign Lord the King the several sums following, namely, the said
C. D., as principal, the sum of and the said *G. H.* and
J. K., as sureties, the sum of each, to be levied on our
several movable and immovable property respectively, if the said *C. D.*
fails in the conditions hereon indorsed.

(Signed, *where not taken orally.*)*C. D.**G. H.**J. K.*

Taken [*orally*] before me this day of
19 .

(Signed.)

(Stipendiary) Justice of the Peace.

NOTE.—Where the recognizance is taken orally, omit the words “the undersigned,” and insert the word “orally” after “taken.”

Condition indorsed.

The condition of the within written recognizance is such that if the
within bounden *C. D.* shall, on day of 19 ,
appear before the (Stipendiary) Justice in the Court sitting
at and receive adjudication of punishment
on a conviction dated the day of 19 ,
then the said recognizance shall be void, but otherwise shall remain in full
force.

FORM No. 54.

Certificate of Dismissal of Complaint or Information.

TRINIDAD AND TOBAGO.

COUNTY OF

I hereby certify that a complaint made [or, an information laid] by
A. B. against *C. D.* for that he (1) was, on the
day of 19 , considered by the said Court, (1) State con-
and was by the said Court dismissed [*with costs.*] cisely the sub-
stance of the
complaint [or,
information].

Dated this day of 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 55.

Constable's Return to Warrant of Distress.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant*, [or Informant]

v.

C. D., *Defendant*.

I, the Police Officer charged with the execution of the warrant of distress in the above-mentioned case, do hereby certify to the said Court that, by virtue of the said warrant, I have made diligent search for the movable property of the above-mentioned defendant; and that I can find no sufficient movable property of the said defendant whereon to levy the sum mentioned in the said warrant.

Dated this day of 19 .

Police Officer.

FORM No. 56.

Constable's Account of Costs and Charges incurred in Execution of Warrant of Distress.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant*, [or Informant]

v.

C. D., *Defendant*.

I, the Police Officer charged with the execution of the warrant of distress in the above-mentioned case upon the movable property of dated the day of 19 , hereby declare that the following is a true account of the costs and charges incurred in respect of the execution of the said warrant.

		\$	c.
		_____	_____
	Total	...	_____
Dated this	day of	19	.
	(Signed.)		

Police Officer.

FORM No. 57.

Order for Restitution of Property.

TRINIDAD AND TOBAGO.

COUNTY OF

(1) State the substance of the complaint [or, information], and describe the goods, as in the conviction.
(2) Or, on or before the day of 19 .

C. D. was charged before the said Court for that he (1) And the said C. D. has been this day convicted before the said Court of the offence with which he was so charged; And it is proved to the said Court that the said goods are now in the possession of of :— Therefore it is hereby ordered that the said do forthwith (2) restore the said goods to the said the owner thereof

Dated this day of 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 58.

Search Warrant.

TRINIDAD AND TOBAGO.

COUNTY OF

To all Police Officers.

Whereas it appears, on the oath of A. B., of _____ that
 there is a reason to suspect that (1) _____ are concealed
 in _____ at _____ :—This is therefore to
 authorize and require you to enter between the hours of _____
 and _____ into the said premises, and to search for the said
 things, and to bring the same before me or some other Magistrate.

(1) Insert
 description of
 the things to
 be searched
 for and of the
 offence in
 respect of
 which the
 search is made.

Dated this _____ day of _____ 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 59.

Warrant on Transfer of Case.

TRINIDAD AND TOBAGO.

A. B., Complainant, [or, Informant]

v.

C. D., Defendant.

To all Police Officers.

Whereas on the _____ day of _____ 19 _____, complain
 was made [or, *information was laid*] before me, the undersigned (Stipen-
 diary) Justice for the _____ District for that C. D. (1)
 And whereas, on the hearing of the said complaint [or, *information*] it
 appeared that the cause of complaint arose out of the limits of the juris-
 diction of the said Court, and the said Court, being satisfied that it has no
 jurisdiction, has directed the case to be transferred to the Court having
 jurisdiction where the cause of complaint arose, that is to say, to the
 Court :—This is to command you forthwith to convey the
 said C. D. before the (Stipendiary) Justice of the said Court, to answer
 the said complaint [or, *information*], and to be further dealt with accord-
 ing to law.

(1) State con-
 cisely the sub-
 stance of the
 complaint [or,
information].

Dated this _____ day of _____ 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

FORM No. 60.

Affidavit for use in proving Service of Process.

TRINIDAD AND TOBAGO.

No.

Return of Service of Process in respect of Summary Conviction
Offences for the Court.

Name of Complainant.	Name of Defendant.	Document served.	Date of Service.	Place of Service.	Mode of Service.

I do swear that the above Return of Service is true and in accordance with the facts of such Service.

(Signed.)

Deponent.

Sworn before me by the above-named deponent
this day of 19 .

(Signed.)

(Stipendiary) Justice of the Peace.

[or as the case may be.]

NOTE.—In filling up the several columns it will be sufficient to write :—

In Column One and Column Two, the initials of Christian names, giving surnames in full; and

In column Six, the words "personally," or on "wife," "son," "daughter," "attorney," "agent," "clerk," or "servant," as the case may require.

FORM No. 61.

Return by Stipendiary Justice, etc., of Fines, Penalties, etc., received.

TRINIDAD AND TOBAGO.

Monthly return of the Stipendiary Justice of
 District [or, of the Keeper of the (Gaol) Prison]
 under the Summary Conviction Offences (Procedure) Ordinance, of all
 moneys received, and when, and to whom paid from the
 day of 19 , to the day of 19 .

Name of Person convicted.	Date of Conviction or order.	Offence.	Costs.	Amount thereof paid.	Fine.	Amount thereof paid to Parties.	Names of Parties.	Amount of Fine received and paid to Receiver-General.	Punishment when Fine not paid.	Name of convicting Justice.	Reasons for non-payment or other observations.

FORM No. 62.

Form of Commitment for cumulative term of Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

To all Police Officers, and to the Keeper of

A. B., late of *O.* having been this day at the
 Police Court convicted for that he did [*here state the offence*] and adjudged
 for his offence to forfeit the sum of and in default of
 payment to be imprisoned [*hard labour*] for to commence
 after the expiration of another term of imprisonment for an offence for
 which he was on the day of convicted and
 now stands committed under a warrant signed by [*me*]
 and dated the day of I command that [*the*
said sums remaining unpaid] the said *A. B.* be conveyed to
 and delivered to the Keeper to be safely kept and imprisoned [*hard labour*]
 for to commence after the expiration of the other
 term of imprisonment [*unless the said sums and the charges of his commit-*
ment and conveyance to prison amounting to shall be sooner
paid.]

SCHEDULE IV.

FORM I.

(Form of Notice where the appellant is a defendant.)

TRINIDAD AND TOBAGO.

To A. B., Esq.,

Clerk of the

Court.

Take notice that I, E. F. aggrieved by a conviction (or order) of G. H., Esq., dated _____ against me the said E. F. for having as therein alleged on the _____ day of _____ (*here state briefly the conviction or order*) do appeal against such conviction (or order) on the following grounds, viz. :—

That I am not guilty of the offence charged.

That (*here state special grounds, if any.*)

Dated this _____ day of _____ 190 .

E. F. (*or his Solicitor.*)

FORM II.

(Form of Notice where Court refuses to make a conviction or order.)

TRINIDAD AND TOBAGO.

To A. B., Esq.,

Clerk of

Court.

Take notice that I, C. D. aggrieved by the refusal of E. F., Esq., to make any conviction or order upon a certain complaint or information bearing date the _____ day of _____ wherein G. H. was charged with (*set out substance of information*) do appeal against such refusal to convict on the following grounds :

That the said G. H. is guilty of the offence with which he stood charged.

That (*here state special grounds, if any.*)

Dated this _____ day of _____ 19 .

C. D. (*or his Solicitor*)

FORM III.

(Form of Recognizance where appellant is convicted.)

TRINIDAD AND TOBAGO.

Be it remembered that on the _____ day of _____ in the year of our Lord _____ A. B. (*appellant*) of _____ and C. D. of _____ and E. F. of _____ (*surety or sureties as the case may be*) came before me the undersigned (*Stipendiary*) Justice of the Peace for

(*district*) and severally acknowledged themselves to owe to our Sovereign Lord the King the several sums following, that is to say, the said *A. B.* the sum of and the said *C. D.* the sum of and the said *E. F.* the sum of .

Whereas on day of the said *A. B.* was convicted before Esq., (*Stipendiary*) Justice of the Peace (*or Justice of the Peace as the case may be*) for that he the said *A. B.* did on day of (*here state substance of conviction or order.*)

And whereas the said *A. B.* has appealed against the said conviction (*or order.*)

Now the condition of this recognizance is such that if the said *A. B.* shall personally appear at the sittings of the Court of Appeal when his appeal comes on to be heard, and shall then and there duly prosecute such his appeal, and not depart the Court without leave, and abide by and perform the judgment of the said Court of Appeal, and pay all such costs as shall be awarded against him by the said Court, then this recognizance shall be void, but otherwise shall be in full force and effect.

(<i>Appellant</i>)	(<i>Signed</i>)	<i>A. B.</i>
(<i>Surety</i>)	„	<i>C. D.</i>
(<i>Surety</i>)	„	<i>E. F.</i>

Taken and acknowledged before me.

J. P. or S. J. P.

(*Signed.*)

FORM IV.

(*Registrar's certificate of Non-payment of costs.*)

TRINIDAD AND TOBAGO.

Certificate of Registrar of Court of Appeal held at the Court House in the Town of Port-of-Spain.

(*Title of the Appeal.*)

I hereby certify that at a Court of Appeal holden at the Court House in the Town of Port-of-Spain (*or Scarborough, as the case may be*) on day of an appeal by *A. B.* against a conviction (*or order*) of *C. D.*, Esq., one of His Majesty's (*Stipendiary*) Justices of the Peace for (*District*) was heard and determined, and the said Court thereupon ordered that the said conviction (*or order*) should be confirmed (*or quashed*) and that the said should pay to the said the sum of for the costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to me, the undersigned Registrar, on or before the day to be by me handed over to the said : And I further certify that the said sum for costs has not, nor has any part thereof, been paid.

Dated

Registrar.

FORM V.

(Warrant of Commitment for Non-payment.)

To all Police Officers and to Keeper of the Gaol
at

Whereas *A. B.*, late of (Labourer) was on
the day of duly convicted before
the undersigned, one of His Majesty's Justices of the Peace in and for the
said county of for that (*set out substance of
conviction*) And whereas the said *A. B.* appealed against the said conviction
(*or order*) in which *C. D.* was the respondent and which appeal was heard
and determined at the Court of Appeal holden at
and the said Court thereupon ordered that (*set out conviction or order*)
and that should pay to
the sum of for costs incurred by him in the said appeal,
which said sum was to be paid to the Registrar of the Courts on or before
the day of 19 , to be by him handed
over to the said ; And whereas the Registrar of the
said Court hath on the day of instant
duly certified that the said sum for costs has not been paid. These are
therefore to command you to take the said
and him safely to convey to the Gaol at
and there deliver him to the Keeper thereof together with this precept :
And I do hereby command you the Keeper of the said Gaol
there to imprison him for the space of
unless the said sum and all costs and charges of the said Appeal (and of
the Commitment and conveying the said to the said
amounting to a further sum of) are
sooner paid unto you the said Keeper ; And for so doing this shall be your
sufficient warrant.

Given under my hand this day of ,
in the year of Our Lord one thousand nine hundred and in
the (County) aforesaid.

J. N.

No. 2. [Vide No. 53.]

AN ORDINANCE relating to the duties of Magistrates in respect of offences punishable on indictment.

1. This Ordinance may be cited as the Indictable Offences Short Title.
(Magistrates Procedure) Ordinance.

2. It shall be lawful for any Stipendiary Justice of the Peace on receiving information of any offence committed in any part of the Colony, or on receiving information of any offence committed outside this Colony, whether within the King's dominions or not by any subject of His Majesty over and in respect of which offence the Supreme Court may exercise jurisdiction by virtue of any Ordinance or Law, or by virtue of the Common Law of England or of any Act of Parliament for the time being in force, to commence forthwith a preliminary examination in the premises, and for that purpose to issue his warrant for the apprehension of any person who from information upon oath is reasonably suspected of having committed the said offence, and for the summoning of those persons whom it appears necessary to examine as witnesses, or in case it is not known or suspected by whom the offence was committed then in like manner to issue his warrant for summoning all such witnesses aforesaid. Power to issue warrant.

The Warrant may be in the form given in the Schedule to this Ordinance or in other similar form according to the circumstances of the case, and it shall be the duty of every constable to whom the same is delivered for execution to carry the same into effect as soon as possible, and on the apprehension of any person described in the warrant to take him in custody without unnecessary delay before some Stipendiary Justice of the Peace.

3. It shall be lawful for any Stipendiary Justice in whose presence any offence being a felony or breach of the peace shall be committed, either himself to apprehend the party offending, or verbally to command so to do any other person or persons, who thereupon may follow the offender, and if he shall flee, may carry into effect and execute such command out of the view of the Justice by whom the same may be given. Magistrate may order arrest for felony committed in his presence.

4. It shall be lawful for any constable, in whose presence any felony or breach of the peace shall be committed, to arrest the offender, and also to arrest any person whom from Constable may arrest.

credible information or other cause he may reasonably suspect to be guilty of any felony.

Private persons may arrest for felony committed in their presence.

5. It shall be lawful for any private person, in whose presence any felony shall be committed, to arrest the offender and take him or cause him to be taken before the Stipendiary Justice of the district within which he shall be apprehended, to be dealt with according to law.

Mode of procedure to ensure attendance of witnesses.

6. If it shall be made to appear to any Stipendiary Justice, by the oath or affirmation of any credible person, that any person is likely to give material evidence on behalf of the prosecutor or complainant or defendant, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such information, such Justice may and is hereby required to issue his summons to such person requiring him to be and appear at a time and place mentioned in such summons; and if any person so summoned shall not appear at the time and place appointed by the said summons, and no just excuse shall be offered for such non-appearance then (after proof upon oath or affirmation of such summons having been served upon such person either personally or by leaving the same for him with some person at his last or most usual place of abode) it shall be lawful for any such Justice to issue a warrant to bring and have such person at the time and place therein mentioned before the Justice who issued the summons or before such other Stipendiary Justice as shall then be there to testify as aforesaid, or if such Justice shall be satisfied by evidence upon oath or affirmation that such person will not attend in obedience to such summons, then instead of issuing such summons it shall be lawful for him to issue his warrant in the first instance.

And if on the appearance of the person so summoned either in obedience to the said summons or upon being brought before the said Justice by virtue of the said warrant, such Justice is satisfied that such person will not attend to give evidence at the time and place appointed for the hearing of the said information or complaint, then such Justice may either bind such person in his own recognizance and that of some other person as his surety to appear at the time and place appointed for the hearing of such information to give evidence or at once issue a warrant under his hand for the arrest and production of the witness at a time and place to be therein specified.

7. Each of the witnesses shall be examined apart from the others, and before he shall give his evidence shall be sworn, or in those cases, in which by the law of England the affirmation of any such witness would be received in lieu of an oath, shall affirm that in his deposition he will speak the truth, the whole truth, and nothing but the truth, and his deposition shall be taken down in writing in presence of the accused, or if taken in the absence of the accused, shall be read over to him in the presence of the witness, and the Justice and the accused shall be at liberty to cross-examine every such witness, and what such witness shall state upon the cross-examination shall be also taken down in writing, and shall stand as part of his deposition; and every such deposition shall be signed by the Justice and the witness, or in case of the incapacity or refusal of the latter to sign the same, then by the Justice and one other credible person in whose presence the same was taken.

Examination
of witnesses.

[Vide Section 6
of No. 53.]

8. Upon information on oath being made before any Stipendiary Justice that there is reason to suspect that any person has in his possession or on his premises any stolen property, it shall be lawful for such Justice to grant a warrant to search for such property, which warrant shall have the same force as any such warrant would have in like case by the law of England.

Search war-
rants.

9. Every Stipendiary Justice shall have authority to bind any person who knows or declares anything material touching any felony or suspicion of felony, or any misdemeanor or suspicion thereof, to appear before the Supreme Court, and to give evidence against the party accused in his own recognizance, or in his own recognizance and that of some other person as his surety as to the Justice shall seem fit; and if any person having been duly summoned to attend as a witness before any Stipendiary Justice shall fail or refuse to attend, or attending shall refuse to give his evidence, or if any person being thereunto lawfully required shall refuse so to be bound over or give security to appear and give evidence, as the case may be, the Justice may issue his warrant to apprehend and bring before him the person so failing to attend, and to commit and detain in prison until he shall submit any person so refusing to give evidence, or to be bound over, or give security.

Witness may
be bound over
to attend
Sessions.

10. After the examination of the witnesses shall have been concluded, the Stipendiary Justice shall ask the

Examination
of accused;
caution to be
given to him.

accused whether he will say anything in answer to the charge preferred against him and shall at the same time explain to and caution him that he is not obliged to make any statement that may criminate himself, or any other statement whatsoever, and that what he shall say may be used in evidence against him ; and that he is at liberty, if so it shall please him, to defer and withhold any answer to the charge until put upon his trial and any statement which the accused may think fit to make, shall without delay be taken down in writing, so far as the same may be relevant to the charge; and the same after being read over to him shall be subscribed by him, if he will subscribe the same, and by the Justice also, and by one other person at the least present at the time when such statement was made.

Accused to be asked by Magistrate if he desires to call witnesses.

11. Where any person appears or is brought before any Stipendiary Justice charged with any indictable offence, such Justice before committing such accused person for trial or admitting him to bail, shall immediately after obeying the directions of Section 10 hereof, demand of the accused person whether he desires to call any witnesses, and if the accused person in answer to such demand calls or desires to call any witnesses, such Justice shall, in the presence of such accused person, take the statement on oath, both examination and cross-examination of those so called as witnesses who know anything relating to the facts and circumstances of the case or anything tending to prove the innocence of such accused person, and shall put the same into writing; and the depositions of such witnesses shall be read over to and signed respectively by the witnesses and shall be signed also by the Justice taking the same, and transmitted in due course with the other depositions, and such witnesses, not being witnesses merely to the character of the accused, who in the opinion of the Justice give evidence material to the case or tending to prove the innocence of the accused person shall be bound by recognition to appear and give evidence at the trial; and afterwards upon the trial of such accused person, all the laws in force relating to the depositions of witnesses for the prosecution shall extend and be applicable to the depositions of witnesses by this Section directed to be taken.

Accused to be committed to gaol or admitted to bail.

12. If there shall appear to the Stipendiary Justice sufficient grounds for putting the accused on his trial for the offence of which he is accused, the Justice shall grant

his warrant for the commitment of such person so accused to gaol, there to be detained until brought to trial for the said offence, or until discharged in due course of law ; and in every such warrant the offence with which the prisoner is charged shall be clearly expressed : Provided always, that nothing herein contained shall be construed to prevent the Justice from admitting the accused person to bail, if the offence charged shall be of a bailable nature.

13. Every person so committed to gaol shall be confined and detained in the Royal Gaol in the town of Port-of-Spain, or in such other prison within the district in which he shall have been committed as may have been appointed by the Governor. Place of imprisonment.

14. If there shall not appear to the Stipendiary Justice sufficient grounds for at once committing the person accused for trial or for discharging him, and it shall appear to him probable that further evidence may be had in support of the charge, then and in such case it shall be lawful for the Justice to grant his warrant to commit such person for a reasonable time for further examination, and sufficient cause appearing, again to commit and re-commit him for the same purpose : Provided always, that in every such warrant of commitment or re-commitment for examination, there shall be specified the time when the prisoner is again to be brought before the Justice. Magistrate may commit for further examination.

15. Every person accused while under examination or re-examination shall be entitled as of right to the presence and assistance of his legal adviser, and while under commitment for examination or re-examination shall be allowed the access of his legal adviser at all reasonable times. Accused to be allowed assistance of legal adviser.

16. It shall be the duty of the Stipendiary Justice before whom any such preliminary examination shall be taken, to make or cause to be made such local inspection as the circumstances of the case may require ; and in case of murder or grievous injury to the person, to cause the body of the person killed or injured to be examined by some regular medical practitioner, if any such can be had, and if not, then by the most competent person or persons that can be obtained, whose depositions on oath shall afterwards be taken by him. Magistrate to make local inspections, &c., and to cause examination of persons injured or murdered.

17. The Stipendiary Justice shall cause all writings and other articles exhibited by the witnesses, or any of them, Exhibits.

to be inventoried and labelled or otherwise marked in the presence of the person producing or identifying the same, so that the same may be identified at the trial.

Magistrate
may consult
Attorney-
General.

18. If in the course of any such preliminary examination, and before the Stipendiary Justice shall determine upon commitment for trial, he shall entertain any reasonable doubt as to the mode of proceeding, or the measures to be pursued by him, it shall be lawful for him to commit the prisoner to some place of security until he shall have submitted the case for the opinion of the Attorney-General and Public Prosecutor, and taken his advice thereon.

Depositions to
be sent to
Attorney-
General.

19. When the preliminary examinations shall be concluded, and the warrant of commitment for trial made out, the Stipendiary Justice shall without delay transmit the depositions of the witnesses, and the statement of the accused to the Attorney-General and Public Prosecutor so that he may take such measures, and give such directions as he may deem advisable for the trial or liberation of the prisoner, or for taking further evidence upon the charge.

Depositions to
be filed with
the Registrar
with the
indictment.

20. The depositions and statements so transmitted to the Attorney-General and Public Prosecutor shall be kept by him until the filing of the indictment to which such depositions or statements may relate, and shall then be delivered to the Registrar of the Supreme Court, by whom they shall then afterwards be kept safely and securely, so that he shall have them ready to produce if commanded so to do at the trial of the cause, then and there to be made use of, with permission of the Court, in the same manner and for the like, but no other purpose or purposes whatsoever, as in such cases would be allowed according to the law of England, and the practice of the Courts there.

Persons
committed for
misdemeanor
to be admitted
to bail.

[This section
repealed by
Ord. No. 53.]

Magistrate
may admit to
bail for felony
in certain
cases.

21. During any inquiry before any Stipendiary Justice touching any offence not being treason or felony, it shall be lawful for the Justice if he shall see fit to permit the person accused of such offence to be at large on such bail as to the Justice shall seem reasonable, and every person who shall be committed for trial for any offence not being felony, shall be entitled to be admitted to bail, so soon as the warrant of commitment is made out, and for that purpose may then make verbal application to the Justice; and where any person shall be charged with felony or upon suspicion of felony, and the evidence given in support of the charge shall, in the opinion of the Justice not be such

as to raise a strong presumption of the guilt of the person charged, and to require his committal, or such evidence shall be adduced on behalf of the person charged as shall in the opinion of the Justice render it probable that such person is not guilty of the offence wherewith he stands charged, but there shall notwithstanding appear to the Justice in either of such cases to be sufficient ground for judicial inquiry into his guilt, the person charged may be admitted to bail by such Justice : Provided always, that nothing herein contained shall be construed to require any Justice to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to him to be meet and conducive to the ends of justice to hear the same.

22. Every person, at any time after actual commitment of his person, may make application by petition in writing, to be accompanied by a copy of the warrant of commitment, or an affidavit that the same is denied, to the Judge or Justice by whom the warrant was granted, or to the Supreme Court or to any Judge thereof, to be admitted to bail : Provided always, that when any such commitment shall be made under warrant issued by the said Court or any Judge thereof such application shall be made to the said Court or to the Judge by whom the said warrant was issued.

Applications
for bail to be
made to Court
or Judge in
writing.

23. The amount of bail to be taken in any case shall be at the discretion of the Court, Judge or Justice to whom the application shall be made, but no person shall be required to give excessive bail.

Amount of
bail.

24. The recognizance of the bail shall be taken in writing either from the prisoner alone, or from the prisoner and one or more surety or sureties, at the discretion of the Court, Judge, or Justice by whom such bail shall be taken according to the nature and circumstances of the case, and shall be signed by the party and his surety or sureties, and the condition of such recognizance shall be, that the prisoner shall personally appear before the Supreme Court, there to answer to any indictment that shall be filed against him in the said Court for the offence wherewith he is charged at any time within the space of twelve calendar months from the date of such recognizance, and that he shall not depart the said Court without leave, and that he will accept service of any such indictment at some certain place, by him to be elected, and in the said condition to be expressed : and such recognizance may be according to the form in the

Form of
recognizance.

Schedule to this Ordinance, or as near thereto as the circumstances of the case will allow: Provided always, that if the accused be an infant, or a married woman, then the recognizance shall be taken only from the surety or sureties.

Bailments and
recognizances
to be sent to
Attorney-
General.

25. All such bailments and recognizances which shall be taken before any Justice, shall be forwarded by him to the Attorney-General and Public Prosecutor at the same time with the preliminary examinations of the witnesses and other proceedings had before such Justice on the charge to which the same relate, or as soon as may be after such bailments or recognizances are taken, and the same shall be lodged by the Attorney-General and Public Prosecutor with the Registrar of the Supreme Court, at the same time with the indictment and such preliminary examinations and proceedings as aforesaid; and all such bailments and recognizances taken before the Court, or any Judge thereof, shall be lodged with and left in the custody of the said Registrar as soon as the same are taken.

Report of
Government
Analyst.

26. At any preliminary examination or Coroner's Inquest any document purporting to be a report from the Government Analyst upon any matter or thing submitted to him for examination, analysis or report may if it bears his signature be used as evidence.

The Justice or Coroner may presume that the signature to any such document is genuine, and that the person signing it held the Office which he professed to hold at the time when he signed it.

THE SCHEDULE.

To all Constables.

WHEREAS by information on oath given before me,
a Stipendiary Justice of the Peace, one C. D. is charged with (or suspected of) having at

[*here set out the charge*]

Now, THEREFORE, these are to authorise and require you, and each of you, forthwith to take the body of the said C.D. and him to bring before me or any other Stipendiary Justice for examination on the said charge, and for so doing this shall be your sufficient warrant.

Given under my hand at

this

day of

Stipendiary Justice of the Peace.

OUR SOVEREIGN LORD THE KING

Against

A. B. on the charge of C. D. for [state offence briefly.]

At _____ in the said Colony, on this _____ day of _____ in the year of our Lord one thousand _____ of _____ in the said Colony, acknowledges himself to be indebted to our Sovereign Lord the King, in the sum of _____ British sterling money, and _____ of _____ acknowledges himself to be indebted to our Sovereign Lord the King, in the sum of _____ pounds, like money ; upon condition, that if the said _____ do personally appear before the Supreme Court, in the town of _____ to answer to any indictment that shall be presented against him in the said Court in or about the premises, within the term of twelve Calendar months from the date of this acknowledgment, and do not depart the Court without leave, and do accept service of any such indictment at the residence of _____ situate in _____ in the town of _____ and that the said _____ in the meantime be of good behaviour, and keep the peace towards the King and all his liege subjects, and especially towards _____ then this recognizance to be void ; or else to remain in full force. And the said _____ severally acknowledge themselves debtors in solidum to our Sovereign Lord the King in the sums hereinbefore respectively acknowledged by them, upon the property of them and each of them, to the use of our said Lord the King, to be levied in due form of law, in case of default made in the condition of this recognizance or obligation.

Acknowledged by the said _____ on the _____ day of _____
one thousand _____

Witness. Before me,

No. 3.

AN ORDINANCE to provide for the maintenance of Bastard Children.

Short title. 1. This Ordinance may be cited as the Bastardy Ordinance.

Interpretation. 2. In this Ordinance

The word "District" means a District assigned to a Stipendiary Justice of the Peace.

The word "Prison" includes the Royal Gaol, and any Lock-up House, Police Cell, or other duly authorized place of detention.

The term "Single woman" includes a widow but does not include any woman reputed to be of immoral character.

Putative father to be summoned on application of mother.

3. Any single woman who may be with child or who may be delivered of a bastard child, may

(1.) Before the birth, or

(2.) At any time within twelve months from the birth of such child, or

(3.) At any time thereafter upon proof that the man alleged to be the father of such child has within twelve months next after the birth of such child paid money for its maintenance, or

(4.) At any time within the twelve months next after the return to this Colony of the man alleged to be the father of such child upon proof that he ceased to reside in the Colony within the twelve months next after the birth of such child,

make application by complaint on oath in the form contained in the schedule hereto to the Stipendiary Justice of the Peace of the District in which she may reside for a summons to be served on the man alleged by her to be the father of the child, and if such application be made before the birth of the child the woman shall make a deposition upon oath or shall make affirmation stating who is the father of such child and such Justice shall thereupon issue his summons to the person alleged to be the father of such child to appear before such Justice on some day to be named in the summons.

4. It shall not be lawful for any Stipendiary Justice on any application for a summons under this Ordinance to grant such summons until he shall first have satisfied himself that there is reasonable cause to believe that the man alleged to be the father of the child is in truth and in fact the father of such child; and that such application is made *bona fide* and not for any purpose of intimidation or extortion.

Issue of summons.

5. Any single woman or other person who upon the trial or hearing of any case under this Ordinance shall make any statement which in the opinion of the Stipendiary Justice shall be false in fact or which such woman or other person as aforesaid knew or believed to be false, or did not believe to be true shall be guilty of an offence; and it shall thereupon be lawful for the Justice in any such case to order such woman or other person forthwith to pay a penalty not exceeding Fifty Pounds and in default of immediate payment to be imprisoned with or without hard labour for any term not exceeding six months:

Penalty for false statement.

Provided that nothing in this Section contained shall exempt any person from any proceeding or indictment for perjury so that a person be not punished twice for the same offence.

6. After the birth of such bastard child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person or left at his last place of abode seven days or more before the hearing, the Stipendiary Justice shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the Justice he may adjudge the person summoned to be the putative father of such bastard child, and the Justice may also if he sees fit, having regard to all the circumstances of the case, proceed to make an order on the putative father for the payment to the mother of the bastard child or to any person who may be appointed to have the custody of such child under the provisions of this Ordinance of a sum of money weekly not exceeding Two shillings and sixpence a week for the maintenance and education of the child, and of the expenses incidental to the birth of such child, and of the funeral expenses of the child, provided it has died before the making of such order, and of

Order for maintenance, and enforcement by distress and commitment.

such costs as may have been incurred in the obtaining such order, and if the application be made before the birth of the child or within two calendar months after the birth of the child such weekly sum may if the Justice thinks fit be calculated from the birth of the child, and if at any time after the expiration of one calendar month from the making of such order as aforesaid it be made to appear to the Justice upon oath or affirmation that any sum to be paid in pursuance of such order has not been paid, the Justice may by warrant under his hand cause such putative father to be brought before him, and in case such putative father neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, apprehension and bringing up of such putative father, such Justice may by warrant under his hand direct the sum so appearing to be due, together with such costs, to be recovered by distress and sale of the goods and chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress unless he gives sufficient security by way of recognizance or otherwise to the satisfaction of such Justice for his appearance before the Justice on the day which may be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security, but if upon the return of such warrant, or if by the admission of such putative father, it appear that no sufficient distress can be had, then such Justice may if he sees fit by warrant under his hand cause such putative father to be committed to the Royal Gaol there to remain without bail for any term not exceeding three calendar months, unless such sum or costs and all reasonable charges attending the said distress together with the costs and charges attending the commitment and conveying to the Prison and of the persons employed to convey him thither be sooner paid and satisfied.

Time of
cessation of
Order.

7. No order for the maintenance and education or for contribution towards the relief of any such child made in pursuance of this Ordinance shall except for the purpose of recovering money previously due under such order be of any force or validity after the child in respect of whom it was made has attained the age of thirteen years or after the death of such child: Provided that the Stipendiary Justice may in

the order direct that the payments to be made under it in respect of the child shall continue until the child attains the age of sixteen years in which case such order shall be in force until that period.

8. (1.) All money payable under any order as aforesaid shall be due and payable to the mother of the bastard child in respect of such time and so long as she lives and is of sound mind and is not in any prison. And after the death of the mother of such bastard child, or whilst such mother is of unsound mind, or confined in any Prison, the Stipendiary Justice may if he sees fit by order under his hand from time to time appoint some person to have the custody, and who with his own consent shall have the custody of such bastard child, and the Justice may revoke the appointment of such person, and may appoint another person in his stead, and every person so appointed to have the custody of a bastard child shall be empowered to make application for the recovery of all payments becoming due under the order of the Justice as aforesaid in the same manner as the mother of such bastard child might have done.

Money to be paid to mother or person appointed by Magistrate.

(2.) Upon any order of appointment or of revocation being made under this section the Justice may also order the bastard child to be delivered by any person or persons to the person appointed to have the custody thereof as aforesaid.

Magistrate may order delivery of child.

(3.) The performance of any order made under this section may be enforced as any other order of a Stipendiary Justice may be enforced under the provisions of the Summary Conviction Offences (Procedure) Ordinance.

Enforcement of order or recognizance.

No 1.

9. After the making of an order on the putative father under this Ordinance he may appeal from such order under and subject to the provisions of the said last mentioned Ordinance or of any Ordinance which may hereafter be passed regulating appeals from summary convictions.

Appeal against order.

10. Every woman neglecting to maintain her bastard child being able wholly or in part so to do shall be punishable as an idle and disorderly person. And every woman so neglecting to maintain her bastard child after having been once before convicted of such offence and every woman deserting her bastard child shall be punishable as a rogue and vagabond.

Neglect and desertion of bastard child.

Every person punishable under this section shall be punished according to the provisions of any Ordinance in

force awarding punishment to idle and disorderly persons and to rogues and vagabonds.

Misapplying
moneys or
maltreating a
bastard child.

11. Every person having the custody of any bastard child under any order as hereinbefore provided who may misapply moneys paid by the putative father for the support of such child or may withhold proper nourishment from such child or otherwise abuse and maltreat such child shall on summary conviction forfeit and pay a penalty not exceeding Ten pounds, and in default of immediate payment shall be imprisoned with or without hard labour for any term not exceeding three months.

Issue of free
process.

12. It shall be lawful for the Stipendiary Justice to authorize the making out of any complaint under this Ordinance from the counterfoil book, but free of charge in cases in which he is satisfied that the complainant is without means and there is apparently sufficient cause for the issue of such free process and in each such case he shall direct the costs of the complainant to be reserved and dealt with at the hearing, and on authorizing the making out of the complaint free of charge, he shall make entry in the counterfoil of the complaint book of having made such direction, and also after the conclusion of the hearing an entry of the way in which such costs were subsequently dealt with by him, and if such costs are subsequently paid an entry of such payment and of the date thereof shall similarly be made therein.

Governor may
frame forms,
&c.

13. The Governor may from time to time frame and issue such Forms of procedure as may be necessary for giving effect to the provisions of this Ordinance and also may from time to time alter or annul any of such Forms.

Procedure.

14. Except as provided for or varied by this Ordinance all procedure including the computation of and other matters with respect to costs shall be as near as may be according to the procedure under the Summary Conviction Offences (Procedure) Ordinance.

No 1.

THE SCHEDULE.

No.	TRINIDAD AND TOBAGO.	No.	TRINIDAD AND TOBAGO.
BASTARDY COMPLAINT.	BASTARDY COMPLAINT.	<i>Complainant.</i>	The information and application of at before me the undersigned Stipendiary Justice of the Peace for this day of , 19 , who saith
Summons issued	<i>Defendant.</i>	(Names,)	and maketh application to me for a summons to be served upon the said to appear at the Police Court at to answer the said summons.
Summoned witnesses for Complainant.	(Names.)	Hearing date	<i>Complainant's Signature.</i>
Summoned witnesses for Respondent.	Order (Evidence Book p. .)	Taken before me this	day of , 19 .
day of	, 19 .	Fee received, Six Shillings.	<i>Stipendiary Justice of the Peace.</i>
<i>S.J.P.</i>	<i>S.J.P.</i>	<i>S.J.P.</i>	<i>S.J.P.</i>

No. 4.

AN ORDINANCE for providing a summary remedy against persons deserting their Wives and Children.

Short title.

1. This Ordinance may be cited as the Maintenance of Wives and Children Ordinance.

Order of maintenance in case of desertion.

2. Where any person shall desert and leave his wife or child (such child being under the age of sixteen years) without sufficient means of support, it shall be lawful for any Stipendiary Justice of the Peace on complaint on oath in the form contained in the Schedule hereto made by or on behalf of such wife or child, and upon due and satisfactory proof that the person so left is the lawful wife or the lawful child, as the case may be, of the person so complained against and that the person so complained against is of sufficient ability either by labour or by other lawful means to maintain himself and his wife or child, and that such wife or child is without means of support, to make an order to be called "An Order of Maintenance" for the payment by such person to his wife or to any person having the care or custody of such child, of such weekly or monthly sums for the maintenance and support of such wife or child at such times and at such place as to such Justice shall seem reasonable.

Enforcement of order.

3. If at any time after an order of maintenance shall have been made under this Ordinance it shall be made to appear to any Stipendiary Justice of the Peace upon oath that any moneys directed to be paid by such order have not been paid according thereto and are in arrear, it shall be lawful for any such Justice to issue a warrant under his hand for bringing the person against whom such order shall have been made before any Stipendiary Justice of the Peace, and if such person on being brought before such Justice shall fail to show sufficient excuse, to be allowed by such Justice, why such payment has not been made, or if such person cannot be found, it shall be lawful for such Justice to proceed to recover the moneys so unpaid together with the costs of the warrant and the apprehension of such person, by distress and sale of the goods and chattels of such person, or by attaching the rents and profits of the lands and tenements of such person ; or it shall be lawful for such Justice, if he shall see fit, to commit such person to gaol

there to be imprisoned with hard labour for such term not exceeding one day for every shilling of such sum and costs as the Justice shall see fit, unless such sum and costs be in the meantime paid.

4. Where any Stipendiary Justice shall see fit to proceed for the enforcement of an order of maintenance by attachment of the rents and profits of any lands or tenements of such person against whom such order of maintenance shall have been made it shall be lawful for such Justice to issue a summons requiring the tenant of any lands or tenements of the person against whom such order of maintenance shall have been made to appear before such Justice at a time to be named in such summons to show cause why any rents due or which may from time to time become due from such tenant should not be paid over to the wife or person having the care of the child of the person against whom such order of maintenance shall have been made; and if no sufficient cause be shown to the contrary it shall be lawful for any Stipendiary Justice by Order under his hand to be called "An Order of Attachment," to direct such tenant from whom any rent shall be due, or from time to time become due or payable, to pay either in one sum or by such weekly or other instalments as the Justice shall see fit, and for such time as shall be limited by such order to such wife or to the person having the care of such child any sum mentioned in the order of maintenance which shall have been unpaid and be in arrear, and also the amount of any future weekly or monthly payments which shall afterwards become and be payable under and by virtue of such order of maintenance; and the payment to and receipt of any such wife or person having the care of such child shall be a good discharge to such tenant for so much of any rent as shall be paid by virtue of any such order of attachment; and if any such tenant shall refuse or neglect to pay to the person producing any such order of attachment, the moneys directed to be paid according to the terms of such Order, and at the times thereby fixed for such payment, the same may be levied and recovered, and payment thereof with costs from time to time enforced against such tenant in a summary manner by distress and sale of the goods of such tenant.

Order of attachment may issue and may be enforced by distress.

5. It shall be lawful for any Stipendiary Justice, on the application of any person against whom any such order of maintenance shall have been made, on its being made to

Adultery of wife or inability of person to pay.

appear to him on oath that the wife of such person is living in adultery, or that such person is no longer of sufficient ability either by labour or other lawful means to maintain himself and his wife or child, to issue his summons for the appearance of the wife or the person having the care of the child for whose maintenance such Order shall have been made, and thereupon, if he shall see fit, by order in writing, to rescind such order of maintenance, or to reduce the monthly or weekly payments thereby directed to be made to such smaller sums as to the Justice shall seem fit: And the payment of all such smaller sums shall and may be enforced and recovered in the same manner as if the same had been mentioned in the original order of maintenance.

Appeal.

No. 1.

6. In all cases where any Stipendiary Justice shall make or refuse to make an Order of maintenance, or to make an Order for rescinding any such order of maintenance, it shall be lawful for any party dissatisfied with the decision of such Stipendiary Justice to appeal to the Supreme Court under the Summary Conviction Offences (Procedure) Ordinance and such Court shall thereupon hear and determine such appeal, and shall have the power, if it shall see fit, to make an Order of maintenance, or to set aside any Order or decision made by such Justice, and shall make such Order as to the costs of such appeal as to the Court shall seem fit, and any Order of maintenance which may be made by such Court of Appeal shall have the same force and effect, and such proceedings may be had thereon by and before any Stipendiary Justice for enforcing or obtaining the payment of the moneys which shall be payable under such Order, as if such Order had been made by a Stipendiary Justice.

Evidence of husband and wife.

7. The evidence of the husband or of the wife shall be admissible in any case to prove or disprove the fact of marriage or of desertion, but such evidence shall not be admissible to prove or disprove the adultery of the wife.

Issue of free process.

8. It shall be lawful for the Stipendiary Justice to authorize the making out of any complaint under this Ordinance from the counterfoil book, but free of charge in cases in which he is satisfied that the complainant is without means and there is apparently sufficient cause for the issue of such free process and in each such case he shall direct the costs of the complainant to be reserved and dealt with at the

hearing, and on authorizing the making out of the complaint free of charge, he shall make entry in the counterfoil of the complaint book of having made such direction, and also after the conclusion of the hearing an entry of the way in which such costs were subsequently dealt with by him, and if such costs are subsequently paid an entry of such payment and of the date thereof shall similarly be made therein.

9. The several forms in the Schedule to this Ordinance or **Forms.** forms to the like effect shall be deemed good and sufficient in law.

THE SCHEDULE.

No. TRINIDAD AND TOBAGO. MAINTENANCE COMPLAINT.	No. TRINIDAD AND TOBAGO. MAINTENANCE COMPLAINT.
vs. Summons issued Summoned witnesses for Complainant. (Names.) Summoned witnesses for Respondent. (Names.) Hearing date Order (Evidence Book p. .) day of , 19 . Fee received, Six Shillings.	The information and application of residing at before me the undersigned Stipendiary Justice of the Peace for the said Colony this day of , 19 , who saith and maketh application to me for a summons to be served upon the said to appear at the Police Court at to answer the said summons. <i>Complainant's Signature.</i> Taken before me this day of , 19 . <i>Stipendiary Justice of the Peace.</i> Fee received, Six Shillings. <i>S.J.P.</i>

Summons.

Whereas complaint upon oath has been made to me
 Stipendiary Justice of the Peace for the County of
 by C. D. the Wife (or E. F. a Child under the age of
 sixteen years) of you A. B. of the Ward of (or by G. H. of
 on behalf of C. D. the Wife (or E. F. a Child under the age
 of sixteen years of you the said A. B.) that you the said A. B. have
 deserted the said C. D. your Wife without reasonable cause (or the said
 E. F. your Child) and that the said C. D. (or E. F.) is without sufficient
 means of support: I do hereby require you the said A. B. to appear at
 on the day of
 then and there to answer the matter of the said Complaint.

Order of Maintenance.

Whereas on complaint on oath made before Stipendiary
 Justice of the Peace of that A. B. of has deserted
 C. D. his Wife (or E. F. a child under the age of sixteen years of the said
 A. B.) without means of support, the said A. B. being summoned appeared
 before me the undersigned Stipendiary Justice of the Peace to answer the
 matter of the said Complaint (or being summoned failed to appear to
 answer the matter of the said Complaint, although a copy of such
 Summons was duly served on the said A. B. by delivering the same to him
 personally, or leaving the same at being his last known place of
 abode on the day of last), and it was
 thereupon made to appear to me that the said A. B. had deserted the said
 C. D. without reasonable cause (or the said E. F. his Child being under
 the age of sixteen years) and that the said C. D. (or E. F.) is without
 sufficient means of support, and that the said A. B. is able either by
 labour or other lawful means to maintain himself and the said C. D.
 (or E. F.) I do hereby in pursuance of the Ordinance in that case made and
 provided, Order that the said A. B. do pay to the said C. D. for her
 maintenance and support (or to being the person having the care
 of the said E. F. for the maintenance and support of the said E. F.) from
 and after the date of this Order the weekly (or monthly) sum of
 to be paid before the hour of Twelve in the forenoon of the
 day of each week (or on the (*specify the day*) of each month) at (*specify
 place where payment to be made.*)

*Summons in case of Default of payment of sum mentioned in Order
 of Maintenance.*

To A. B.

Whereas complaint has been made to me Justice of the
 Peace for on the oath of that you A. B. have made default
 in payment of the sum [or sums if more than one] of which was
 [or were] payable by you to C. D. your Wife [or having the
 care of E. F. a child under the age of sixteen years of you the said A. B.]
 on the day of [*specify day or days when moneys in
 arrear were payable*] under and by virtue of a certain Order of Maintenance
 made on the day of by Stipendiary Justice
 of the Peace for : These are to command you the said
 A. B. to appear before Stipendiary Justice of the Peace for
 at in the on the day of
 then and there to answer in the premises.

Order of Commitment in default of payment of Maintenance.

To Sergeant of Police and all other Police Constables, and
to Keeper of the Gaol.

Whereas by an Order under the hand of Stipendiary Justice of the Peace for the County of bearing date the day of and made in pursuance of the Ordinance in that behalf made and provided, it was ordered that A. B. of should pay to C. D. his wife (or to having the care of E. F. a Child under the age of sixteen years of the said A.B.) from and after the date of the said Order of Maintenance the weekly (or monthly) sum of for or towards the maintenance and support of the said C. D. (or E. F.): And whereas it has been made to appear to me on the Oath of that the sum (or several sums of) being the weekly (or monthly) payment (or payments) which by virtue of the said Order became and was (or were) payable on the day of (if more than one specify when payable) was (or were) not paid, and is (or are) still unpaid: And the said A. B. having heard the said evidence doth not say anything or offer any evidence to gainsay the same (or the said A. B. although duly summoned to answer in the premises doth not appear): These are therefore to command you to apprehend the said A. B. and him safely to convey to the Gaol, and there deliver him to the said Keeper thereof together with this precept: And these are to command you the said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, and him there safely to keep without bail for the space of days to be computed from the day on which he shall be delivered into your custody, unless the said sum of together with the further sum of which I do hereby allow to the said C. D. for costs be sooner paid. And for so doing this shall be your sufficient warrant.

Summons to show cause why wages should not be attached.

To N. O. [name of Tenant] of

Whereas complaint on Oath hath been made before Stipendiary Justice of the Peace for the County of that default has been made by A. B. in payment to C. D. his Wife [or having the care of E. F. a Child under the age of sixteen years of the said A. B.] of the sum or several sums of which was [or were] payable to the said on the day of [specify the day or days if more than one sum be in arrear] under and by virtue of a certain Order of Maintenance made on the day of by Stipendiary Justice of the Peace for the County of : And it has been made to appear to me that you are in possession as tenant of the said A. B. of the Messuage [specify number of Street and situation of Messuage or Tenement] at a yearly [monthly or weekly as the case may be] rent of : I do hereby require you the said N. O. to appear before Stipendiary Justice of the Peace for the County of on the day of at the Police Office in there to show cause why the rent now payable or hereafter to become payable by you to the said A. B. should not be attached in your hands to be paid in whole or part to the said C. D. [or to the said for the use of the said E. F.]

Order of Attachment.

To N. O. of

Whereas on complaint on Oath made before me Stipendiary Justice of the Peace for the County of it has been made to appear that A. B. of has made default in the payment of the sum of which sum was payable by him to C. D. his Wife [*or* having the care of E. F. a Child under the age of sixteen years of the said A. B.] under and by virtue of a certain Order of Maintenance made by Stipendiary Justice of the Peace and bearing date the day of in the year 190 : And it has been also made to appear to me that you the said N. O. are in possession as Tenant of the said A. B. of the [*describe the property*] at a rent of ; and you the said N. O. having been summoned to answer in the premises have appeared and have not shown sufficient cause why this Order should not be made [*or* being summoned have not appeared by yourself or any other person : I do therefore order and direct you the said N. O. to pay unto the said C. D. [*or* having the custody of the said E. F.] on his or her demanding the same, the sum of being the sum [*or* sums] so unpaid and in arrear, together with the further sum of for costs allowed by me against the said A. B. out of the rent of the said Messuage or Tenement now due or which shall become due by you as Tenant of the said A. B. and also the weekly [*or* monthly] sum of from this time until the day of which will be in the year ; and the receipt or receipts of the said C. D. [*or* as the case may be] shall be to you a good and sufficient discharge [*or* discharges] for all moneys hereby directed to be paid.

Given under my hand this day of in the Year of
our Lord 190

No. 5.

AN ORDINANCE for rendering certain offences punishable on Summary Conviction.

Short Title. 1. This Ordinance may be cited as the Summary Convictions (Offences) Ordinance.

Interpretation. 2. In this Ordinance the following words and expressions shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction, that is to say :

“Person” includes a corporation, whether aggregate or sole.

“Street” includes any road, square, court, alley, lane, wharf, jetty, thoroughfare, or public passage or highway.

“Cattle” includes horses, asses, mules, kine, sheep, goats, and swine, as well as all horned cattle.

“Vessel” includes schooners, droghers, flats, punts, scows, boats, canoes, corials, rafts, or other craft.

“Vehicle” includes waggons, carts, carriages, of every description on wheels, sledges, trucks, barrows, and all other machines for the portage of goods or persons.

“Prison” includes any lock-up house, cell or other duly authorized place of detention.

“Keeper” means the Keeper or other officer having the charge of any prison.

“Shop” means any house in which goods, wares or merchandize are exposed for sale.

“House” means any dwelling house, store, warehouse, counting house, manufactory, stable or shed ; and also includes any building capable of containing goods, wares or merchandize.

“Owner” means the person for the time being receiving or entitled to receive the rents of any house, building, yard or other place or his agent, and shall include joint tenants and tenants in common.

“Occupier” means any person in actual occupation of the whole or any part of any house, building, yard or other place.

“Convicted felon” means any person convicted of felony either summarily or on indictment.

“Person convicted of riot or affray” means any person convicted for riot or affray either summarily or on indictment.

“Obeah” signifies every pretended assumption of supernatural power or knowledge whatever for fraudulent or illicit purposes or for gain, or for the injury of any person.

“Valuable security” includes any tally, order or other security whatever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund of any body corporate, company or society, or to any deposit in any bank, or any debenture, deed, bond, bill, note, warrant, order or other security whatsoever for money or for payment of money, or any warrant or order for the delivery or transfer of any goods or valuable thing.

“Property” includes any description of real and personal property, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property or giving a right to recover or receive any money or goods, and includes not only such property as shall have been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediate or otherwise.

“Carnival” means the time during which persons are permitted to appear masked or otherwise disguised in conformity with regulations made by the Chief Officer of Police in any town or district.

3. All offences cognizable under this Ordinance may be prosecuted before any Justice of the Peace except where Jurisdiction. herein otherwise provided.

Assault and Battery.

4. Every person who shall unlawfully assault or beat any other person shall upon complaint by or on behalf of the party aggrieved, and upon conviction thereof before any Stipendiary Justice, either be imprisoned with or without hard labour for any term not exceeding three months, or else shall forfeit such sum not exceeding, together with costs (if ordered) the sum of ten pounds, and in default of payment of such fine, together with the costs (if ordered), within such Assault and battery.

period as such Justice shall appoint, shall be imprisoned with or without hard labour for any term not exceeding three months unless such fine and costs be sooner paid.

Assaults upon
children and
women.

5. When any person shall be charged before any Stipendiary Justice with assault or battery upon any male child whose age shall not, in the opinion of such Justice, exceed fourteen years, or upon any female, either upon the complaint of the party aggrieved or otherwise, the said Justice, if the assault or battery is of such an aggravated nature that it cannot in his opinion be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same, and such person on conviction thereof shall be imprisoned with hard labour for any term not exceeding six months.

Assaults by
masked
persons.

6. Any person who, being masked or otherwise disguised, shall unlawfully assault or beat any other person shall upon conviction before a Stipendiary Justice be imprisoned with hard labour for any term not exceeding six months.

Where assault
unproved or
trivial certifi-
cate of dis-
missal to be
bar to pro-
ceedings.

7. If the Stipendiary Justice, upon the hearing of any case of assault or battery upon the merits where the information was laid by or on behalf of the person aggrieved shall deem the offence not to be proved, or find the assault or battery to have been justified, or so trifling as not to merit punishment, and shall accordingly dismiss the information, he shall forthwith give to the defendant a certificate of the dismissal, and such certificate shall release the defendant from all other proceedings, civil or criminal, for the same cause.

Justice to
abstain from
adjudication
in certain
cases.

8. In case the Justice shall find the assault or battery complained of to have been accompanied by any attempt to commit felony, or shall be of opinion that the same is from any other circumstance a fit subject for prosecution by indictment he shall abstain from any adjudication thereupon and shall deal with the case in all respects in the same manner as if he had no authority finally to hear and determine the same: Provided also that nothing herein contained shall authorise any Stipendiary Justice to hear and determine any case in which any question shall *bond fide* arise as to the title to any lands, tenements, or hereditaments or any interest therein, or accruing therefrom, or as to any bankruptcy or any execution under the process of any Court of Justice.

Larceny, Embezzlement, False Pretences, and Malicious Injuries.

9. Every person who shall be guilty of the larceny or the attempt to commit the larceny of any chattel, money, or valuable security, such larceny not being accompanied by burglary or housebreaking, menace or threat, nor amounting to robbery with violence, or who shall embezzle or shall by any false pretence obtain from any other person with intent to defraud any chattel, money, or valuable security where such chattel, money, or valuable security shall not in any case exceed the value of twenty pounds, shall on conviction thereof before any Stipendiary Justice, be imprisoned with or without hard labour for any term not exceeding six months.

Larceny.
Embezzlement.
False pretences.

10. Every person who shall steal any dog or who shall steal any bird, beast or other animal ordinarily kept in a state of confinement or for any domestic purpose not being the subject of larceny by the common law of England shall be imprisoned with hard labour for any term not exceeding three months, or shall forfeit any sum not exceeding five pounds, in addition to the value of the stolen dog, bird, beast or other animal, and in default of payment shall be imprisoned for any term not exceeding three months, and on any subsequent conviction be imprisoned with hard labour for any term not exceeding six months.

Stealing animals.

11. If any such bird or any of the plumage thereof, or any such dog or beast or the skin thereof or any such animal or any part thereof shall be found in the possession or on the premises of any person, any Justice may restore the same respectively to the owner thereof; and any person in whose possession such bird or the plumage thereof or such dog or beast or the skin thereof, or such animal or any part thereof shall be found, such person knowing that the bird, dog, beast or animal has been stolen, or that the plumage is the plumage of a stolen bird, or that the skin is the skin of a stolen dog or beast or that the part is a part of a stolen animal shall be liable for the first offence to such forfeiture, and for every subsequent offence to such punishment as any person convicted of stealing any dog, beast, bird or other animal is herein made liable to.

Unlawful possession of animals or parts thereof.

12. Every person who shall unlawfully and maliciously kill, maim or wound any dog, bird, beast or other animal not being cattle but being either the subject of larceny by

Killing and wounding animals.

the common law of England or ordinarily kept in a state of confinement or for any domestic purpose shall be imprisoned with or without hard labour for any term not exceeding three months or shall forfeit any sum not exceeding twenty pounds over and above the amount of the injury done, and in default of payment shall be imprisoned for any term not exceeding three months, and on any subsequent conviction shall be imprisoned with hard labour for any term not exceeding six months.

Killing and
wounding
pigeons.

13. Every person who shall unlawfully and wilfully kill, wound or take any house-dove or pigeon under circumstances which do not constitute larceny by the common law of England, shall be imprisoned with or without hard labour for any term not exceeding one month, or shall forfeit any sum not exceeding two pounds, in addition to the value of the bird, and in default of payment be imprisoned for any term not exceeding one month.

Unlawfully
taking fish.

14. Every person who shall unlawfully and wilfully take and destroy any fish in any water which shall be private property shall forfeit any sum not exceeding five pounds in addition to the value of the fish taken or destroyed, and in default of payment be imprisoned with or without hard labour for any term not exceeding two months.

Stealing and
damaging
trees.

15. Every person who shall steal, or unlawfully and maliciously root up, destroy, or damage, the whole or part of any tree, sapling, or shrub, wheresoever growing, the value thereof or the injury done being to the amount of one shilling at the least, shall forfeit any sum not exceeding five pounds, in addition to the value of the property stolen, or the amount of the injury done and in default of payment be imprisoned with or without hard labour for any term not exceeding two months, and on any subsequent conviction shall be imprisoned with hard labour for any term not exceeding four months.

Stealing and
destroying
fences.

16. Every person who shall steal, or unlawfully and maliciously destroy or damage, any part of any live or dead fence whatsoever, or any iron or wooden post, pale, rail or wire, used as a fence, or any stile or gate, or any part thereof respectively, shall forfeit any sum not exceeding five pounds, in addition to the value of the property stolen, or the amount of the injury done, and in default of payment be imprisoned with or without hard labour for any term not exceeding two months, and on any subsequent conviction be imprisoned with hard labour for any term not exceeding six months.

17. Every person who shall steal, or unlawfully and maliciously root up, destroy, or damage, any plant, root, fruit, or vegetable production growing in any garden, orchard, or nursery ground, greenhouse, or conservatory, shall be imprisoned with hard labour for any term not exceeding three months, or shall forfeit any sum not exceeding twenty pounds, in addition to the value of the property stolen, or the amount of the injury done, and in default of payment be imprisoned with hard labour for any term not exceeding three months, and on any subsequent conviction shall be imprisoned with hard labour for any term not exceeding six months.

Stealing and
destroying
cultivated
plants.

18. Whosoever shall steal, or destroy or damage or cut or pluck with intent to steal any sugar-cane, cocoa-tree or coffee-tree, or any fruit, vegetable or other prædial production, or any cultivated root or plant used or capable of being used for the food of man or beast or for medicine, distilling or dyeing or in the course of any manufacture, whatever the value of the article stolen may be and whether the land on which the same is at the time growing or in course of cultivation be open or enclosed shall on conviction before any Stipendiary Justice be liable to be imprisoned and kept to hard labour for any term not exceeding three months or if the offender be a male under the age of sixteen the Stipendiary Justice may in lieu of imprisonment sentence such offender to undergo corporal punishment or to be fined any sum not exceeding one pound in addition to the value of the property stolen or the amount of the injury done and in default of payment shall be imprisoned with or without hard labour for any term not exceeding three months; and if any person so convicted of an offence under this Section shall afterwards commit any of the said offences such offender shall be guilty of felony and being convicted thereof shall be liable to be punished in the same manner as in a case of simple larceny.

Stealing, &c.,
sugar-cane,
cocoa-tree or
coffee-tree, or
vegetable pro-
ductions, &c.

Second
offence.

19. Every person who shall unlawfully and maliciously damage any real or personal property whatsoever, of a public or private nature, for which no punishment is otherwise provided, shall pay what shall appear to the convicting Justice a reasonable compensation for the damage, not exceeding five pounds, and in default of payment shall be imprisoned with or without hard labour for any term not exceeding two months, but the above provision shall not extend to any

Damaging
property.

case in which the person complained against shall have acted under a fair claim of right.

Injuring trees less than the value of one shilling.

20. The provisions in the last preceding clause contained shall extend to any person who shall wilfully or maliciously commit any injury to any tree, sapling, shrub or underwood, for which no punishment is hereinbefore provided.

Unlawful possession of trees or parts of fences.

21. If the whole or any part of any tree, sapling or shrub, or any underwood or any part of any fence, or any post, pale, wire, rail, stile or gate, or any part thereof, being of the value of one shilling at the least, shall be found in the possession or on the premises of any person with his knowledge, and such person shall not satisfy the Justice before whom he shall be brought that he came lawfully thereby, he shall forfeit in addition to the value of the article or articles so found, any sum not exceeding two pounds, and in default of payment be imprisoned with or without hard labour for any term not exceeding two months, and on any subsequent conviction shall be imprisoned with hard labour for any term not exceeding four months.

Unlawful possession of cattle or parts thereof.

22. If any horse, mare, gelding, colt, or filly, or any mule or ass, or any bull, cow, ox, heifer or calf or any ram, ewe, sheep or lamb, goat or swine, or the carcass, head, skin or any part thereof shall be found in the possession or on the premises of any person, and if such person shall not satisfy the Justice before whom he shall be brought, that he came lawfully by such cattle, or the carcass, head, skin, or any part thereof, he shall forfeit any sum not exceeding five pounds, and in default of payment be imprisoned for any term not exceeding two calendar months, and on any subsequent conviction shall be imprisoned with hard labour for any term not exceeding six months.

Stealing, &c., cattle or domestic animals may be punished with whipping.

23. If any person shall be convicted under this Ordinance of stealing or wilfully receiving, knowing the same to have been stolen, any horse, mare, gelding, colt or filly, or any mule or ass, or any bull, cow, ox, steer, heifer or calf, or any ram, ewe, sheep or lamb or any hog, sow or pig, or any goat or kid, or of stealing or wilfully receiving, knowing the same to have been stolen, any animal ordinarily kept in a state of confinement or for any domestic purpose, or any animal ordinarily used for human food, it shall be lawful for the convicting Justice in addition to any other punishment awarded by law for such offence to direct that the offender if a male shall undergo corporal punishment.

24. If any person having been convicted before the Supreme Court or any Stipendiary Justice of stealing, or unlawfully and maliciously destroying or damaging any sugar cane, cacao tree or coffee tree, or any cultivated root or plant used for the food of man or beast, or for medicine, or for dyeing or distilling, or for, or in the course of any manufacture, and growing in any land whether open or enclosed, or of stealing or wilfully receiving, knowing the same to have been stolen, any animal ordinarily kept in a state of confinement, or for any domestic purpose, or any animal ordinarily used for human food, shall afterwards commit any of the said offences, and shall be convicted thereof before any Stipendiary Justice, it shall be lawful for such Justice, in addition to any other punishment award by law for such offence, to direct that the offender, if a male, shall undergo corporal punishment.

Second offence of stealing or damaging useful plants and domestic animals punishable by whipping.

25. In any prosecution for maliciously destroying or damaging any property, it shall not be necessary to prove malice against the owner.

Not necessary to prove malice.

26. Every sum of money adjudged to be paid as the value of any property stolen or taken, or the amount of the injury done, which shall be assessed by the convicting Justice, shall be paid to the party aggrieved, if known, but if unknown it shall be applied in the same manner as any fine; but when several persons shall be convicted for the same offence and each shall be adjudged to pay the value of the property stolen or taken, or the amount of the injury done, the party aggrieved shall receive only one such sum, and the residue shall be applied in the same manner as any fine.

Compensation to injured person.

Receiving, &c.

27. Where the stealing of any property is punishable under this Ordinance, any person who shall receive any such property knowing the same to be unlawfully come by shall, on conviction before any Stipendiary Justice, be punished in the same manner as any person guilty of the offence of stealing such property is punishable.

Receiving punishable as stealing.

28. If property of any kind belonging to or forming part of the cargo of a vessel in distress, or wrecked, stranded, or cast on shore, or belonging to any of the officers, crew or passengers of such vessel, shall be found in the possession or on the premises of any person with his knowledge and such person shall not satisfy the Justice before whom he shall be

Unlawful possession of property pertaining to ships, &c.

brought that he came lawfully by the same he shall forfeit any sum not exceeding twenty pounds, and in default of payment be imprisoned with hard labour for any term not exceeding three months.

Offering for
sale property
belonging to
ships.

29. If any person shall offer or expose for sale property of any kind which shall have been unlawfully taken or shall be reasonably suspected so to have been taken from any vessel in distress, or wrecked, or stranded, or cast on shore, in every such case any person to whom the same shall be offered for sale, or any Officer of Customs or constable may lawfully seize the same, and shall with all convenient speed carry the same or give notice of such seizure to some Justice of the Peace, and if the person who shall have offered or exposed the same for sale being summoned by such Justice shall not appear and satisfy the Justice that he came lawfully by such property, then the same shall by order of the Justice be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the Justice) to the person who seized the same; and the offender shall forfeit any sum not exceeding twenty pounds and in default of payment be imprisoned with or without hard labour for any term not exceeding three months, and on any subsequent conviction shall be imprisoned with hard labour for any term not exceeding six months.

Limitation.

Limitation
of time.

30. All cases punishable under this Ordinance of larceny, attempting to commit larceny, aiding, abetting, counselling, or procuring the commission of a larceny, and receiving any chattel, money, or valuable security, knowing it to have been unlawfully come by, or of embezzling or obtaining by any false pretence any chattel, money, or valuable security, with intent to defraud, may be prosecuted at any time within twelve months after the commission of the offence.

Superstitious Devices.

Assumption
of super-
natural power
or knowledge.

31. Every person who, by the practice of obeah or by any occult means or by any assumption of supernatural power or knowledge, shall intimidate or attempt to intimidate any person, or shall obtain or endeavour to obtain any chattel, money, or valuable security from any other person, or shall pretend to discover any lost or stolen goods, or the person who stole the same, or to inflict any disease, loss, damage,

or personal injury to or upon any other person, or to restore any other person to health, and every person who shall procure, counsel, induce or persuade, or endeavour to persuade any other person to commit any such offence shall, on conviction before any Stipendiary Justice, be imprisoned with or without hard labour, for any term not exceeding six months, and if a male, may be sentenced to undergo corporal punishment during the continuance of such imprisonment, and if a female, may during such imprisonment be kept in solitary confinement not exceeding three days at any one time, and not exceeding one month in the whole, as such Justice shall direct.

32. If it shall be shewn, upon the oath of a credible witness, that there is reasonable cause to suspect that any person is in possession of any article or thing used by him in the practice of obeah or witchcraft, it shall be lawful for any Justice of the Peace, by warrant under his hand, to cause any place whatsoever belonging to or under the control of such person, to be searched, either in the day or in the night, and if any such article shall be found in any place so searched to cause the same to be seized and brought before him or some other Justice of the Peace, who shall cause the same to be secured for the purpose of being produced in evidence in any case in which it may be required.

Articles used
in obeah and
witchcraft
may be seized.

Idle and Disorderly Persons.

33. Every person committing any of the offences herein-after mentioned in this section shall be deemed an idle and disorderly person, and shall be imprisoned with or without hard labour for any term not exceeding one month:—

Who shall be
deemed idle
and disorderly
persons.

1. Every person who being able by labour or other lawful means to maintain himself or his wife, or child, where such wife or child is without other means of support, shall refuse or neglect so to do.
2. Every person wandering abroad or placing himself in any street to beg or gather alms or causing or procuring or encouraging any child so to do.
3. Every person sleeping or loitering in or under any verandah, gallery, outhouse, passage, gateway, or building wholly or in part unoccupied, or being found in or under any cart, carriage, or vessel, or on or under any wharf, quay, jetty, bridge, footway, or other public place, or within

Not supporting
wife or child.

Begging.

Sleeping or
loitering.

any enclosed land, without leave of the owner, occupier or person in charge thereof, and not giving a good account of himself.

Placarding.

4. Every person who shall without leave of the owner or occupier, affix any placard or notice upon any building or wall, or otherwise deface the same.

Fortune telling.

5. Every person pretending or professing to tell fortunes.

Rogues and Vagabonds.

Who shall be deemed rogues and vagabonds.

34. Every person convicted a second time of being an idle and disorderly person, and every person apprehended as an idle and disorderly person violently resisting any police officer apprehending him, and who shall be subsequently convicted of the offence for which he shall have been so apprehended, and every person who shall commit any of the offences hereinafter mentioned in this section, shall be deemed a rogue and vagabond, and shall on conviction be imprisoned with hard labour for any term not exceeding two months :—

Begging.

1. Every person procuring or endeavouring to procure alms or charitable contributions for himself or others under any false or fraudulent pretence.

House breaking implements.

2. Every person having in his custody or possession any implement which there is reasonable cause to believe is intended for the purpose of unlawfully breaking into any building, and every such implement shall on the conviction of the offender be forfeited.

Weapons.

3. Every person armed with, or having upon him, any weapon or instrument which there is reasonable cause to believe is intended for the purpose of committing any felony; and every such weapon and instrument shall, on the conviction of the offender, be forfeited.

Being in place for unlawful purposes.

4. Every person found in any verandah, gallery, passage, gateway, dwelling house, warehouse, store, stable, outhouse or other building, or in any yard, garden or other inclosed land, for any unlawful purpose.

Idem.

5. Every person found in or about any market, wharf or jetty, or in or about any vessel for any unlawful purpose.

6. Every person who exposes in any public place or in view thereof any defamatory or insulting writing or object. Defamatory objects.
7. Every person who offers for sale or distribution, or who exhibits to public view any profane, indecent or obscene book, paper, print, drawing, painting or representation. Obscene prints.
8. Every person wilfully and obscenely exposing his person in any public place or within view thereof. Obscene exposure.
9. Every person playing or betting in any open and public place at any game or pretended game of chance or with any instrument of gaming. Gaming.
10. Every woman loitering about and soliciting passers for the purpose of prostitution. Prostitutes.

Incorrigible Rogues.

35. Every person committing an offence against this Ordinance which shall subject him to be dealt with as a rogue and vagabond, such person having been previously convicted as such, and every person apprehended as a rogue and vagabond and violently resisting any police officer so apprehending him, and who shall afterwards be convicted of the offence for which he shall have been apprehended, and every person who shall break or escape out of any place of lawful confinement before the expiration of the term for which he shall have been committed under this Ordinance shall be deemed to be an incorrigible rogue, and shall on conviction before any Stipendiary Justice be imprisoned with hard labour for any term not exceeding six months, and if a male, may be sentenced to undergo corporal punishment. Who shall be deemed to be incorrigible rogues.

36. Any Justice of the Peace, upon information upon oath that any person reasonably suspected to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is or is reasonably suspected to be harboured or concealed in any house or place, may by warrant authorise any constable to enter at any time into such house or place, and to apprehend and bring him before some Stipendiary Justice to be dealt with according to law. Person suspected of being idle and disorderly or a rogue and vagabond, &c., and harboured may be apprehended.

Gaming Houses.

37. Every owner or occupier or keeper of any house or room used as a common gaming house and every other person who shall be in anywise engaged in the management Keeping gaming houses.

thereof, shall on conviction before any Stipendiary Justice forfeit any sum not exceeding fifty pounds or be imprisoned with or without hard labour for any term not exceeding six months.

Gaming
houses may be
entered and
persons taken
into custody
and instru-
ments of
gaming, &c.,
seized.

38. It shall be lawful for any Justice of the Peace on the information in writing of any credible person to authorise by warrant any constable with any necessary assistants forcibly to enter any house or room used as a common gaming house, and to take into custody all persons, and to seize all tables or instruments of gaming, and all moneys or securities for money found therein, and upon proof that such house or room has been used as a common gaming house, every person found therein, without lawful excuse, shall on conviction before any Stipendiary Justice forfeit any sum not exceeding ten pounds, and all such tables or instruments shall be destroyed, and all such moneys or securities for money shall be paid to the Receiver-General for the use of the Colony; provided always that nothing herein contained shall prevent any proceeding by indictment against the owner, occupier, keeper, or other person having the care and management of any gaming house.

Evidence as to
what is a
gaming
house.

39. In default of other evidence to prove a house, room or place to be a common gaming house, it shall be sufficient to prove that it is kept or used for playing therein at any game of chance, and that a bank is kept there by one or more of the players exclusively of the others, or, that the chances of any game played therein are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet.

Idem.

40. Where any cards, dice, balls, counters, tables, or other instruments of gaming used in playing any game of chance, shall be found in any house, room or place suspected to be used as a common gaming house, or about the person of any of those who shall be found therein, it shall be evidence, until the contrary be made to appear, that such house, room, or place is used as a common gaming house.

Idem

41. Where any constable authorised to enter a house, room, or place suspected to be used as a common gaming house is wilfully prevented from, or obstructed or delayed in entering the same, or where such house, room, or place is found fitted or provided with any means or contrivance for

unlawful gaming, or any means or contrivance for concealing, removing or destroying any instruments of gaming, it shall be evidence, until the contrary be made to appear, that such house, room, or place is used as a common gaming house.

42. The owner or occupier of any house, room, or place knowingly and wilfully permitting it to be opened or used by any other person for the purpose of unlawful gaming being carried on therein shall be imprisoned for any term not exceeding six months, or forfeit any sum not exceeding fifty pounds, and in default of payment shall be imprisoned with or without hard labour for any term not exceeding six months.

Permitting house to be used for gaming.

43. Every person who shall wilfully prevent any constable duly authorised from entering any house, room or place suspected to be used as a common gaming house, or shall use any means or contrivance whatsoever for the purpose of preventing, obstructing, or delaying the entry of any constable so authorised, into such house, room, or place, shall be imprisoned with or without hard labour for any period not exceeding four months or forfeit any sum not exceeding twenty pounds, and in default of payment be imprisoned with or without hard labour for any period not exceeding four months.

Obstructing constable entering suspected gaming house.

44. No house, office, room or other place shall be opened, kept or used for the purpose of any money or valuable thing being received by or on behalf of the owner, occupier or keeper thereof, or any person using the same or any person having the care or management or in any way conducting the business thereof or by or on behalf of any person procured or employed by or acting for or on behalf of such owner, occupier, keeper, or person using, or having the care or management of the business, as or for the consideration for any assurance, undertaking, promise, or agreement, express, implied, or understood, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to the game, pretended game or lottery called or known as Whé-whé, or to any lottery, raffle, game or pretended game of chance, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and every house, office, room, or other place opened, kept, or used for the purposes aforesaid, or any of them, shall be taken and deemed to be a

House, &c., kept for the purpose of Gaming.

common Gaming House within the meaning of this Ordinance.

Penalty on
owner, &c.

45. Any person who, being the owner or occupier of any house, office, room, or other place, or a person using the same, opens, keeps, or uses the same for the purposes hereinbefore mentioned, or either of them; and any person who being the owner or occupier of any house, office, room or other place knowingly and wilfully permits the same to be opened, kept, or used by any other person for the purposes aforesaid, or either of them; and any person having the care or management of or in any manner conducting or assisting in conducting the business of any house, office, room, or place opened, kept, or used for the purposes aforesaid, or either of them, shall on summary conviction before any Stipendiary Justice be liable to a penalty not exceeding Fifty Pounds; and if such penalty be not forthwith paid, or in the first instance if the Justice thinks fit, may be imprisoned, with or without hard labour, for any term not exceeding six months.

Penalty on
persons receiv-
ing deposit.

46. Any person, being the owner or occupier of any house, office, room or place opened, kept or used for the purposes aforesaid, or either of them, or any person acting for or on behalf of any such owner or occupier, or any person having the care or management or in any manner assisting in conducting the business thereof, who receives, directly or indirectly, any money or valuable thing as a deposit on condition of paying any sum of money or other valuable thing on the happening of any event or contingency of or relating to any lottery, raffle or game, or pretended game of chance, or as or for the consideration for any assurance, undertaking, promise, or agreement, express, implied or understood, to pay or give thereafter any money or valuable thing on any such event or contingency, and any person giving any acknowledgment, note, security, or draft on the receipt of any money or valuable thing so paid or given as aforesaid purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency as aforesaid, shall, on summary conviction before a Stipendiary Justice be liable to a penalty not exceeding Fifty Pounds; and if such penalty be not forthwith paid, or in the first instance if the Justice thinks fit, may be imprisoned, with or without hard labour, for any term not exceeding three months.

47.—(1.) Any one who gives or sells or offers for sale any paper, ticket or token authorizing or for the purpose of enabling or entitling any person to receive any money or valuable thing on any event or contingency of or relating to the game, pretended game or lottery called or known as Whé-whé or to any lottery, raffle, game or pretended game of chance, Sundry gaming offences.

(2.) Any person or persons attending or assembling in any public or private place for the purpose of ascertaining or waiting for the result of any such event or contingency as aforesaid, and

(3.) Any person who on or under any pretence, device, form, denomination or description whatsoever shall pay or agree or promise to pay any sum or sums of money, or shall deliver or agree or promise to deliver any goods, or shall do or forbear doing or shall agree or promise to do or forbear doing anything for the benefit of any person or persons whether with or without consideration on any event or contingency arising upon or relative or applicable to the drawing or choice by chance or otherwise of any ticket or tickets, lot or lots, number or numbers, figure or figures or on any event or contingency arising upon or relative or applicable to the displaying or declaring of any winning number or numbers, figure or figures, token or tokens, ticket or tickets, lot or lots in any lottery, raffle, game or pretended game of chance, or shall publish any proposal for the purposes aforesaid

shall on summary conviction before a Stipendiary Justice be liable to a penalty of twenty pounds or of such smaller sum as to the Justice seems fit and if such penalty be not forthwith paid, or in the first instance if the Justice thinks fit, may be imprisoned with or without hard labour for any term not exceeding two months.

48. It shall be lawful for any Justice of the Peace, upon complaint made before him on oath that there is reason to suspect any house, office, room, or place to be kept or used contrary to this Ordinance, to give authority by special warrant under his hand, when in his discretion he thinks fit, to all constables, to enter with such assistance as may be found Justice may authorize search of suspected houses.

necessary, into such house, office, room, or place, and if necessary, to use force for making such entry, whether by breaking open doors or otherwise, and to arrest, search, and bring before a Stipendiary Justice all persons found therein, and to seize all instruments of gaming and all tickets, lists, cards, or other documents relating to gaming found in such house or premises, and to remain in such house, office, room, or place such reasonable time as he deems expedient, and if he has any reasonable grounds to suspect that there is concealed in any receptacle in any house, room, office, or place any instruments of gaming, tickets, lists, cards or other documents relating to gaming and after demand and refusal of the keys of such receptacle to break open the same, and upon discovery of any instruments of gaming, tickets, lists, cards or other documents relating to gaming to seize and detain the same till such reasonable time as will allow them to be produced in evidence: Provided that whenever from the lateness of the hour or other reasonable cause it shall be inconvenient to obtain a warrant, then it shall be lawful for any commissioned officer of police or any non-commissioned officer of police not under the rank of sergeant, at any time of the day or night with such assistance as he may take to his aid to enter such house, office, room or place as aforesaid where he may suspect such gaming as aforesaid to be then going on, in the same manner as if empowered to do so by a warrant: Provided further that no such entry without a warrant shall be made unless such commissioned officer or non-commissioned officer as aforesaid shall at the time of such entry and search be in the dress and uniform of the Police Force.

Raffles, etc.,
at bazaars.

49. Provided always that none of the provisions of this Ordinance shall apply to or prevent the sale by raffle or lottery of articles exposed for sale at any bazaar or fancy fair held for raising funds in aid of any institution of a public character, provided that permission for such sale shall have been given in writing by the Governor.

Tender of
amends.

50. No plaintiff shall recover in any action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of Sections 44, 45, 46, 47, 48 and 49 hereof or in, under, or by virtue of any authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who committed such irregularity, trespass or other wrongful proceeding before

such action brought, and in case no tender was made it shall be lawful for the defendant in any such action, by leave of the Court at any time before issue joined to pay into Court such sum of money as he thinks fit, whereupon such proceeding, order, and adjudication shall be had and made in and by such Court as in other actions where defendants are allowed to pay money into Court.

51. No action or information or any other proceeding of what nature soever shall be brought against any person for anything done or omitted to be done in pursuance of Sections 44, 45, 46, 47, 48 and 49 hereof or in the execution of the authorities thereunder unless notice in writing is given by the party intending to prosecute such action, information, or other proceeding to the intended defendant one month at least before prosecuting the same, nor unless such action, information, or other proceeding be brought or commenced within three months next after the act or omission complained of, or in case there was a continuation of damage then within three months next after the doing such damage ceased. The irregularity, trespass, or other wrongful proceeding shall be clearly stated in such notice and such notice shall contain the name and place of abode of the person intending to bring the action and also the name and place of business of the Solicitor if the notice shall have been given by such Solicitor. Notice of action.

Cruelty to Animals.

52. Every person who shall cruelly beat, ill-treat, or torture any animal, or by negligence or ill-usage in the driving thereof be the means whereby any mischief, damage, or injury shall be done to any such animal, shall forfeit any sum not exceeding five pounds, and in default of immediate payment be imprisoned with or without hard labour for any term not exceeding two months. Cruelty to animals.
Vide No. 246.

53. It shall be lawful for any police constable or for the owner of any such animal upon view of any such offence or upon the information of any other person who shall declare his name and place of abode, to seize and secure and forthwith, without any other authority or warrant, to convey any such offender before any Stipendiary Justice, within whose jurisdiction the offence may have been committed, to be dealt with according to law. Apprehension of persons guilty of cruelty.

Offender to
compensate
owner.

54. If any person shall by cruelly beating, ill-treating, over-driving, abusing or torturing any animal, do any damage or injury to such animal, or shall thereby cause any damage or injury to be done to any person or any property, every such offender shall on conviction pay to the owner of such animal (if the offender shall not be the owner thereof) or to the person who shall sustain damage or injury as aforesaid such sum by way of compensation not exceeding the sum of ten pounds as shall be ascertained and determined by the Justice by whom such person shall have been convicted.

Power to order
destruction of
animal.

55. When any person has been convicted under Section 52 of this Ordinance of cruelly beating, ill-treating or torturing any animal or otherwise ill-using the same and it appears to the Stipendiary Justice before whom such person has been convicted that it is expedient that any such animal should be destroyed, it shall be lawful for the Justice as part of his sentence to order such destruction.

Destruction of
animal.

56. On any such order as in the last Section provided being made, it shall be the duty of the officer in charge of the police of the district to have such animal killed as painlessly as possible and the carcass thereof buried or otherwise innocuously disposed of.

Expenses of
destruction.

57. In any such case as in Section 55 hereof mentioned the Stipendiary Justice shall order that the costs of killing such animal and disposing of the body thereof shall be defrayed by the person so convicted and the amount of such costs shall be fixed by the Justice at the time of making such order and shall thereupon become payable by the person against whom such order has been made, and recoverable in the same manner in all respects as a penalty under this Ordinance.

Baiting or
fighting
animals.

58. Every person who shall keep, or act in the management of any house, room, yard, pit or other place for the purpose of fighting or baiting any animal, whether of a domestic or wild nature, or who, being the owner or occupier of any house, room, yard, pit or other place, shall knowingly permit any animals to be there baited or fought shall forfeit any sum not exceeding twenty pounds, and in default of immediate payment be imprisoned with or without hard labour for any term not exceeding three months, or in the discretion of the convicting Justice shall be imprisoned with or without hard labour for any term not exceeding three months.

59. It shall be lawful for any Justice of the Peace by order in writing to authorise any police constable with any necessary assistants to enter any house, room, yard, pit or other place used for the purpose of fighting or baiting any animal, and take into custody all persons who, and to seize all animals which shall be found therein, and every person so found therein, without lawful cause, shall on conviction thereof be imprisoned for any term not exceeding one month or forfeit any sum not exceeding four pounds, and in default of immediate payment be imprisoned for any term not exceeding one month, and every animal so seized shall be forfeited.

Arrest of persons in baiting place and seizure of animals.

60. Provided always that a conviction under this Ordinance shall not exempt the owner, keeper, or manager of any such house, room, yard, pit or other place from any penalty or penal consequence to which he may be liable for the nuisance thereby occasioned.

Conviction not to exempt from action for nuisance.

Drunkenness or Disorderly Conduct in Places of Public Resort.

61. Every owner or occupier, or any person in the employment of any owner or occupier, of any house, shop, room, or other place of public resort wherein provisions, liquors or refreshments of any kind shall be sold or consumed (whether the same shall be kept or retailed therein or procured elsewhere), who shall knowingly permit drunkenness, gambling or any other disorderly conduct therein or knowingly permit or suffer known prostitutes or convicted felons, rogues and vagabonds, or incorrigible rogues to meet together or remain therein shall be imprisoned with or without hard labour for any term not exceeding three months, or shall forfeit any sum not exceeding twenty pounds, and in default of immediate payment be imprisoned with or without hard labour for any term not exceeding three months.

Drunkenness in Public Houses, &c.

62. Any person who shall be drunk, riotous, quarrelsome, or disorderly in any shop, house, premises, or place licensed for the sale of beer, wine, or spirituous liquors by retail, or for refreshment, or kept or used for the time being for public resort, entertainment, instruction or amusement, or shall insult or annoy any person therein, and shall refuse or neglect to quit such shop, house, premises or place upon being requested to do so by the owner, manager, or occupier, or

Ejection of disorderly persons.

his agent or servant, or by any honorary steward of any entertainment, or by any Police officer or constable, shall on conviction thereof before any Justice of the Peace forfeit any sum not exceeding forty shillings; and all Police officers and constables are hereby authorised, empowered and required, on the demand of such owner, manager, occupier, agent or servant, or honorary steward, or when such conduct as aforesaid comes under their own special notice, to assist in expelling such drunken, riotous, quarrelsome or disorderly persons from such shops, houses, premises or places.

Harbouring Constables in Licensed Spirit Shops.

Harbouring
constables in
public houses,
&c.

63. Every person licensed to sell spirits, or wine, beer, cider or other fermented or distilled liquors by retail who shall knowingly harbour or entertain, or suffer to remain in his house or place wherein he carries on business, any Non-commissioned officer or constable of Police during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, or in the performance of any duty as an officer of Customs, shall forfeit any sum not exceeding four pounds, and in default of immediate payment shall be imprisoned with or without hard labour for any term not exceeding one month.

Keeping
shops open at
undue hours.

64. Every owner or occupier of any shop for the sale of goods or provisions by retail who shall open such shop or permit the same to be open after the hour of ten o'clock in the evening or before the hour of five o'clock in the morning shall forfeit for every such offence the sum of five pounds, and in default of payment be imprisoned with or without hard labour for any term not exceeding one month.

Peace Preservation.

Power to pro-
hibit certain
acts.

65. The Governor may from time to time by Proclamation prohibit during periods specified respectively in the Proclamation all or any of the following things in any street, highway or public place,—

1. The carrying of any lighted torch.
2. The beating of any drum, the blowing of any horn or the use of any other noisy instrument.
3. Any dance or procession, and
4. Any assemblage or collection of persons armed with sticks or other weapons of offence and numbering ten or more.

Such Proclamation may extend to the whole Colony or to some specified parts or part thereof and may at any time be revoked.

Any person who does any act or takes part in any dance, procession, assemblage or collection contrary to any such Proclamation shall be guilty of an offence punishable on summary conviction and may be fined in any sum not exceeding twenty pounds, or imprisoned with or without hard labour for any term not exceeding six months.

66. Any constable and any one whom he may call to his assistance or aid may extinguish any torch carried contrary to any such Proclamation and may arrest any person found doing any act or taking part in any dance, procession, assemblage or collection contrary to any such Proclamation, and may take or cause to be taken any person so arrested to some convenient place there to be detained until he is brought before a Stipendiary or other Justice of the Peace to be dealt with according to law.

Power to extinguish torches, and arrest.

67. Every owner or occupier of any house, building, yard or other place, who shall knowingly permit or suffer any convicted felons, persons convicted of riot or affray, common prostitutes, rogues and vagabonds, or incorrigible rogues to meet together or remain therein to the number of ten or more, shall on conviction before any Stipendiary Justice of the Peace,

Penalty on owner for permitting felons, &c., to assemble.

For a first or second offence, forfeit and pay any sum not exceeding ten pounds, and in default of immediate payment, be imprisoned with or without hard labour for any term not exceeding six months.

For a third or subsequent offence, be imprisoned with hard labour for six months.

68. Every owner or occupier of any house, building, yard or other place, who shall knowingly permit or suffer any convicted felons, persons convicted of riot or affray, common prostitutes, rogues and vagabonds, or incorrigible rogues to meet together and remain therein, and to play or sing or dance therein, or to play or bet therein at any game or pretended game of chance with any instrument of gaming or with any coin, card or token, shall on conviction before any Stipendiary Justice be liable to the same penalties and punishments as last aforesaid.

Penalty on owner, &c., permitting felons, &c., to dance.

Penalty on
felons, &c.,
assembling
together, dancing,
&c.

69. If any convicted felons, persons convicted of riot or affray, common prostitutes, rogues and vagabonds and incorrigible rogues shall to the number of ten or more meet together or remain in any house, building, yard or other place, or shall to such number as aforesaid be found playing or singing or dancing therein, or playing, gaming or betting therein with any instrument of gaming or with any coin, card or token, all such persons shall be guilty of an offence against this Ordinance, and on conviction before any Stipendiary Justice shall,

For a first or second offence forfeit and pay any sum not exceeding two pounds, and in default of immediate payment be imprisoned with or without hard labour for any term not exceeding one month.

For a third or subsequent offence, be imprisoned with hard labour for three months.

Police may
enter premises,
&c.

70. It shall be lawful for any police constable at any time of the day or night, with such assistants as he may take to his aid, to enter such house, building, yard or place as aforesaid where he may suspect any such persons as aforesaid to the number aforesaid may be together or may be playing or singing or dancing, or playing or gaming or betting as aforesaid, and to take into custody all such persons found therein to the number of ten or more and to seize and carry away all drums, gongs, tambours, bangées, chac-chacs, or other musical instruments or instruments of gaming found therein, and the same shall be forfeited. Such constable may enter by force, if he is refused admittance after demand thereof.

Possession of
weapons intended for
crime.

71. Every person having in his custody or possession any weapon, instrument, stick, bottle, stone, or other thing intended for the purpose of committing any felony or misdemeanour shall be deemed a rogue and vagabond and on conviction be imprisoned with hard labour for any term not exceeding two months.

Every such weapon, instrument, stick, bottle, stone, or other thing shall be forfeited to His Majesty, and it shall be lawful for any police constable to enter by force if necessary any house, building, yard or other place where he has reasonable cause to believe that there is contrary to this section any such thing as aforesaid, and any such thing there found to remove, destroy or otherwise deal with.

The Carnival.

72. If any person shall, at any time during the Carnival throw, or cause to be thrown upon, or at any person or passenger or resident in any street, any lime, flour, or other substance, matter or thing whatsoever, whether solid or fluid, such person shall be guilty of an offence against this Ordinance, and on conviction before any Stipendiary Justice shall forfeit any sum not exceeding five pounds, and in default of payment may be imprisoned either with or without hard labour for any term not exceeding one month.

Annoyance of
Passengers or
Residents in
Streets.

73. Every person committing any offence against Section 72 hereof may be taken into custody by any officer of police or police constable :—

Apprehension
of offenders.

(a.) In whose view any such offence may be committed.

(b.) Or upon the complaint of any person or passenger or resident upon or at whom any such lime, flour, or other substance as aforesaid may have been thrown, whether in view or not of any such police officer or constable as aforesaid.

Playing Drums.

74. Every owner or occupier of any house, building, yard, or other place who shall, without license under the hand of a Commissioned officer of police, permit any persons to assemble and play or dance therein to any drum, gong, tambour, bangée, chac-chac or other similar instrument of music, at any time between the hour of ten o'clock in the evening of one day, and the hour of six o'clock in the morning of the next day, shall on conviction thereof forfeit any sum not exceeding ten pounds, and in default of immediate payment shall be imprisoned with or without hard labour for any term not exceeding one month, and it shall be lawful for any police constable, with such assistants as he may take to his aid, to enter any house, building, yard or place where any persons may be so assembled, and seize and carry away all such drums, gongs, tambours, bangées, chac-chacs, or other instruments of music, and the same shall be forfeited.

Playing
drums, &c., at
undue hours.

Sunday Trading.

75. Every person who shall on a Sunday employ for hire any other person in any agricultural or manufacturing labour or employment, or in the carting or crooking of any

Employing
persons to
labour or
selling goods
on Sunday.

goods or produce, or in the loading of any vessel, or the transhipping of any goods or produce, or who shall on a Sunday after the hour of nine o'clock in the morning, expose for sale in any public market, any goods, wares, or merchandise, shall on conviction before any Stipendiary Justice forfeit any sum not exceeding five pounds, and in default of immediate payment be imprisoned for any term not exceeding one month.

Not closing
shop at
9 a.m. on
Sundays.

76. Any person who opens or keeps open any shop on any Sunday after the hour of nine o'clock in the forenoon of that day, shall be guilty of an offence and on conviction thereof shall incur a penalty not exceeding five pounds.

Offering for
sale or selling
after 9 a.m.

77. Any person who, in any shop, sells, or offers, or exposes for sale any wares, goods or merchandise on any Sunday after the hour of nine o'clock in the forenoon of that day shall be guilty of an offence and on conviction thereof shall incur a penalty not exceeding five pounds.

Exemptions.

78. Sections 76 and 77 hereof shall not apply,

- (1.) To shops kept by licensed druggists ;
- (2.) To shops in which cooked food alone is sold ;
- (3.) To the sale of any article required in any case of illness or for the burial of the dead.

Nor shall this Ordinance authorise any person holding a license under any Ordinance to sell spirituous liquors by retail or wine, ale, porter, beer and cider to be consumed on the premises to open or keep open the premises in respect of which such license is granted at any time or on any day which is prohibited by the Ordinance under which the license is granted.

Stolen Goods.

Apprehension
of person
carrying goods
suspected to
be stolen.

79. It shall be lawful for any constable to apprehend and detain any person carrying or conveying any article whatsoever, which such constable may have reasonable cause to suspect to be stolen or to contain any stolen goods, and to take such person and such article, and goods, if any, before any Stipendiary Justice to be dealt with according to law, and if such person shall not within some reasonable time to be assigned by such Justice, make it appear to the satisfaction of such Justice by what lawful means he came to be in

possession of such goods, he shall forfeit any sum not exceeding twenty pounds, and in default of immediate payment shall be imprisoned with hard labour for any term not exceeding six months.

80. It shall be lawful for any Justice by warrant under his hand, to direct any constable, with such assistants as may be necessary, to enter and search at any time of the day or by night, any house, store, yard, or other place, or any vessel in which there shall be reasonable cause to suspect that any stolen goods are concealed or placed, and if any such stolen goods or other goods which there shall be a reasonable cause to suspect to have been stolen shall be found, to convey the same forthwith before any Stipendiary Justice, or to guard the same on the spot or in some place of security subject to the orders of any Justice; and to apprehend and convey before any Stipendiary Justice, the person or persons in whose house, store, yard, place or vessel such goods shall be so found, if such constable has reasonable cause to suspect such person or persons to have been privy to such concealment, and also any other person found in such house, store, yard, place or vessel who shall appear to have been privy to the concealing or placing of such goods; and every such person who shall not within some reasonable time to be assigned by such Stipendiary Justice, make it appear to the satisfaction of such Justice by what lawful means such goods came to be in such place as aforesaid, shall be imprisoned with hard labour for any term not exceeding six months, or forfeit any sum not exceeding twenty pounds, and in default of immediate payment shall be imprisoned with hard labour for any term not exceeding six months.

Place in which stolen goods are concealed may be searched; and persons privy to concealment apprehended.

81. When any person charged before any Stipendiary Justice with having or conveying goods stolen or reasonably suspected to have been stolen shall declare himself to have received the same from some other person, or to have been employed as a carrier, agent, or servant to convey the same for some other person, such Justice is hereby authorised to cause every such other person, and also if necessary any other person through whose possession such goods shall previously have passed, to be brought before him and examined, and any such person who shall have obtained possession of such goods, having reasonable cause to believe the same to have been stolen shall be deemed to have received such goods knowing the same to have been stolen, and shall be punished as hereinbefore last men-

Persons through whose possession stolen goods have passed, to be examined.

tioned ; and every such person shall be deemed to have had possession of such goods at the time and place when and where the same shall have been found or seized ; and the possession of a carrier, agent, or servant shall be deemed to be the possession of the person who shall have employed such carrier, agent, or servant to convey the same.

Disposal of
unclaimed
stolen goods.

82. When any person shall have been convicted under this Ordinance of having received any goods knowing the same to have been stolen, it shall be lawful for the Justice before whom the conviction shall have taken place to cause such goods to be publicly advertised for sale, and such goods shall be sold to the highest bidder at public auction within thirty days from the date of such advertisement, if no person shall prove his right to the said goods, or forthwith if such goods shall be of a perishable nature, and the proceeds thereof shall be paid by the Stipendiary Justice of the district to the Receiver-General for the use of the Colony.

Drunkenness, &c., in Streets, Police Courts, &c.

Drunkenness
in streets.

83. Any person drunk and disorderly in any street, and any person guilty of any riotous or indecent behaviour therein, or insulting, obstructing, or annoying any passengers therein, or guilty of any riotous or indecent behaviour in any police court or station or in any place of public entertainment, shall forfeit any sum not exceeding five pounds for every such offence, or be imprisoned with or without hard labour for any term not exceeding two months.

Violent or obscene language, Provoking Breach of the Peace, &c.

Violent and
obscene
language.

84. Any person making use of any violent or obscene language with intent to provoke any other person to commit a breach of the peace, and any person who shall use any obscene or profane language to the annoyance of any resident or passenger in any street, or shall fight or otherwise disturb the peace, shall forfeit any sum not exceeding five pounds, or be imprisoned with or without hard labour for any term not exceeding thirty days.

Offences in Streets and other Public Places.

Offences in
streets.

85. Every person who commits any of the following offences in any street shall forfeit any sum not exceeding five pounds for each offence, or shall be imprisoned with or without hard labour for any term not exceeding one month, that is to say :

1. Every person who exposes for show, hire or sale (except in a market or market place lawfully appointed for that purpose) any animal, or exhibits any show for public entertainment, or shoes, bleeds or farries any animal (except in cases of accident), or cleans or turns loose any animal, or makes, or repairs, washes, or cleans any vehicle (except in case of accident where repair on the spot is necessary).
2. Every person who slaughters any animal, except such as may have met with accident, or which for public safety, or other reasonable cause, ought to be killed on the spot. Slaughtering animals.
3. Every person having the care of any vehicle who rides on the shafts of the same, or who, without having reins and holding the same, rides upon such vehicle or upon any animal drawing the same, or is at such a distance from such vehicle as not to have due control over every animal drawing the same, or who does not in meeting any other vehicle or passenger on horseback keep his vehicle to the left or near side, or who in passing any other vehicle or passenger on horseback, does not keep his vehicle on the right or off side of the road (except in cases of actual necessity, or some sufficient reason for deviation), or who by obstructing the street wilfully prevents any person or vehicle from passing him or any vehicle under his care. Riding on shafts. Rule of the road. Obstructing street.
4. Every person who rides or drives furiously any cattle or vehicle. Furious driving.
5. Every person who being the driver or having the charge of any vehicle shall leave the same unattended. Vehicle unattended.
6. Every person who being the driver or having the charge of any public vehicle shall allow such vehicle to remain or stand for the purpose of hire at any place in any town, other than such as may from time to time be lawfully appointed for such purpose. Standing for hire.
7. Every person who causes any vehicle, or any beast of draught, to stand longer than is Standing undue time.

- necessary for loading or unloading goods or for taking up or setting down passengers (except public carts, cabs, or other vehicles standing for hire in any place lawfully appointed for that purpose), and every person who by means of any vehicle or animal wilfully interrupts any public crossing, or wilfully causes an obstruction.
- Carrying timber.** 8. Every person who carries, or being the owner of any vehicle suffers or permits to be carried, any tree, timber or iron beam, or any lumber or other matter or thing projecting on either side of any such vehicle more than twenty-four inches beyond the plane of the wheels of such vehicle, or carries or suffers to be carried any such tree, timber or iron beam, or lumber or other matter or thing exceeding twenty-five feet in length on any vehicle having less than four wheels.
- Cattle.** 9. Every person who drives or leads any cattle unless with proper and sufficient assistance.
- Forage.** 10. Every person who offers or exposes for sale any herbage or forage in any public place in any town, other than such place or places as may from time to time be lawfully appointed for that purpose.
- Goods on footway.** 11. Every person who exposes for sale any goods whatsoever so that the same project into or over any footway, or beyond the line of the house, shop or building in which the same are exposed.
- Hanging clothes.** 12. Every person who hangs or places any clothes on any line or cord projecting over any part of any street, or on any wall, fence, or paling abutting upon any street.
- Obscene songs.** 13. Every person who sings any profane or obscene song or ballad.
- Naked children.** 14. Every parent or guardian or person standing in the relation of parent or guardian to any child above the age of five years who shall permit such child to go naked.
- Street lamps, bells, knockers.** 15. Every person who wantonly extinguishes the light of or destroys or damages any street lamp, or who wantonly disturbs any inhabitant by pulling or ringing any door bell or knocking at any door.
- Sign-boards.** 16. Every person who wantonly pulls down, destroys, damages or defaces any sign or sign-board.

17. Every person who throws or lays down any stone, timber or any other materials (except building materials so inclosed as to prevent injury to passengers). Placing materials on street.
18. Every person who throws, or who, being the owner or occupier of any house or other building, permits to be thrown from any part of such house or other building any rubbish, water, matter or thing whatsoever. Throwing matter from house.
19. Every person who throws or lays any dirt, ashes or nightsoil, or any carrion, offal, trees, brush-wood, bush, decayed vegetables, or rubbish of any kind into or upon any street or footway. Throwing rubbish on street.
20. Every person who being the owner of any dangerous or ferocious dog suffers the same to go at large unmuzzled. Ferocious dogs.
21. Every person who being the owner of any dog knowingly suffers the same to go at large in a rabid state. Rabid dogs.
22. Every person appearing masked or otherwise disguised except at such times and in conformity with such regulations as may from time to time be allowed by public notice from the chief officer of police in the town or district. Masking.
23. Every person flying a kite or trundling a hoop. It shall be lawful for any Police Constable to destroy any kite which any person shall fly in contravention of this Ordinance. Kites and hoops.
24. Every person who wantonly discharges any fire-arm, or throws or discharges any missile or makes any bonfire or throws or sets fire to any firework. Firearms. Missiles. Bonfires. Fireworks.
25. Every person who shall blow any horn or use any other noisy instrument for the purpose of calling persons together, or of announcing any show or entertainment, or for the purpose of hawking or distributing any articles whatever or of obtaining money or alms, or which is calculated to frighten any horse or other cattle. Blowing horns.
86. Every person who in any street commits any of the following offences to the obstruction, annoyance, or danger of any resident or passenger shall forfeit any sum not exceeding five pounds for each offence or shall be imprisoned Offences in streets to the annoyance, &c., of residents or passengers.

with or without hard labour for any term not exceeding one month ; that is to say :

Every person who places or leaves, or causes to be placed or left, any furniture or goods, or any cask, tub, basket, box, pail, bucket, stool, bench, seat or package on any footway, or places or causes to be placed any blind, shade, covering, awning, or other projection over or along any such footway unless the same be eight feet at least above such footway in every part thereof.

Every person who rolls or carries any cask, tub or wheel or any ladder, plank, board, pole, timber or log of wood upon any footway except for the purpose of loading or unloading any waggon, cart or carriage, or of crossing the footway.

Every person who carries any lighted torch.

Bathing.

Bathing in
Maraval river.

87. Any person who shall bathe in any part of the Maraval river between the dam-head in the valley of Maraval and the sea, and within view from any part of the public road leading from Port-of-Spain to the Ward of Santa Cruz, or who shall wash any clothes in the said river or on the banks thereof between the said dam-head and the sea shall be guilty of an offence against this Ordinance and on conviction thereof before any Justice of the Peace shall forfeit and pay any sum not exceeding twenty pounds.

Fouling of Streams and Ponds.

Washing
clothes in, or
discharge of
noxious matter
into stream or
pond.

88. Every person who shall wash any clothes, or throw, or discharge any water which may have been used in the washing of clothes, or holding soap in solution, or any dirt or filth, or any noxious or foetid matter of any description whatsoever, into any stream or pond, or water, whether running or not, without the permission of the owner of such stream, pond, or water, shall on conviction thereof, forfeit for every such offence any sum, not exceeding five pounds, and every person found committing any such offence may be immediately apprehended by any constable, or by the owner of the property on which the offence shall be committed, or by his servant, or by any person authorised by him, and forthwith taken before any Stipendiary Justice of the Peace, to be dealt with according to law.

89. Every owner of land who shall wash, or cause, or permit any person to wash any clothes, or throw or discharge, or cause or permit any person to throw or discharge any dirt, filth, or other noxious or foetid matter into, or in, any water running through such land, whereby such water coming or flowing into any other land may be polluted and rendered unfit for use, shall on conviction thereof forfeit for every such offence any sum not exceeding twenty pounds nor less than one pound.

Owner of land not to pollute water flowing into any other land.

90. Any penalty under Sections 88 and 89 hereof may be recovered on the information of any Warden, or of the owner of the property upon, or in respect of which such offence shall have been committed, and every such penalty, if recovered on the information of the owner, shall be paid to such owner, which term shall in Sections 88 and 89 and in this section extend to and include any person having the immediate possession, or the management or charge of any land.

Recovery and appropriation of penalties.

Interpretation of term "Owner."

Inciting dogs, etc., to attack.

91. Every person who incites a dog or other animal to attack, worry, or put in bodily fear, any other person or any animal shall be imprisoned with or without hard labour for any term not exceeding two months, or fined any sum not exceeding ten pounds, and in default of payment imprisoned with or without hard labour for any term not exceeding two months.

Inciting dogs to attack.

Keeping Swine.

92. Every person who keeps any swine in any town shall be imprisoned with or without hard labour for any term not exceeding one month or forfeit any sum not exceeding five pounds, and in default of payment shall be imprisoned for any term not exceeding one month, and it shall be lawful for any Police constable to enter in the day time any place in any town in which he may have reasonable cause to suspect that any swine are kept and to seize all swine which may be found therein, and the same shall be forfeited to the use of His Majesty.

Keeping swine.

Trade Licenses.

93. Any person who shall within the limits of any town commence or carry on the trade or business of a blacksmith, tinman, founder, farrier or cooper without having first obtained a license under the hand of the Stipendiary Justice of the town or district, authorising him to carry on such trade or business in some particular house, workshop, or premises to be therein specified, or who, having such license shall carry on such trade or business in any place except

Certain trades to be licensed.

the house, workshop or premises therein specified, shall forfeit any sum not exceeding twenty pounds, and in default of immediate payment be imprisoned for any term not exceeding four months.

Notice of
application
for license.

94. One month's notice by public advertisement shall be given by the Stipendiary Justice of any application made to him for a license to carry on any trade or business mentioned in the last preceding clause, in which notice shall be inserted the name of the applicant and the place where such trade or business is intended to be carried on.

Refusing to
produce
license.

95. Every person carrying on the trade or business of a blacksmith, tinman, founder, farrier or cooper, who on being required by any police constable on the premises where such trade or business is carried on to produce his license shall refuse to do so, shall forfeit any sum not exceeding forty shillings, or be imprisoned for any term not exceeding fourteen days.

Obstructions in Streets, &c.

Obstructions
in streets and
public places.

96. Every person who shall place or leave or cause to be placed or left any obstruction whatsoever upon any street or landing place except such part thereof respectively as may from time to time be allowed by public notice for the purpose by the Chief Officer of Police in the town or district, or shall cause or suffer the same to be left upon the part so allowed for any time exceeding sixty hours from the time of the same being first placed there, shall upon conviction forfeit any sum not exceeding ten pounds, and if any person so convicted shall not within the space of forty-eight hours after such conviction remove the impediment in respect of which such conviction was had, he shall forfeit a further sum of two pounds for every twenty-four hours during which the same shall remain on such road, wharf, or other place.

Disposal of
goods im-
properly
placed in
streets.

97. If any goods be left upon any part of any street or landing place contrary to the provisions of this Ordinance, it shall be lawful for any Justice of the Peace to direct such goods to be removed to some other place, and there detained until all the expenses of the removal and storage of such goods and the amount of any penalties, if any, which may have been incurred in respect thereof shall have been paid; and in case such penalties, and all expenses of the removal and storage of such goods, shall not be paid within one month after the same shall have been incurred, such Justice shall order such articles to be sold, and after satisfaction

from the proceeds of sale of all such penalties and expenses, shall pay the balance of such proceeds of sale to the person entitled to the same; but if no claim is made to such balance of proceeds of sale within thirty days then the whole of such moneys remaining unclaimed shall be paid to the Receiver-General for the use of the colony.

98. The Inspector-General or the Chief Officer of Police in any district may from time to time make orders for the route to be observed by all vehicles, horses and persons and for preventing obstructions in any public place in any case when such public place is liable to be thronged or obstructed; and any person committing any wilful breach of any such order shall be guilty of an offence under this Ordinance and shall forfeit any sum not exceeding forty shillings and in default of payment shall be imprisoned for any term not exceeding seven days.

Regulations for route of carriages, &c., and for preventing obstruction in public places.

Disturbing Places of Worship.

99. Every person who shall be guilty of any riotous, violent, or indecent behaviour, in any place of divine worship, whether during divine service, or at any other time, or who shall disturb or molest any person therein whether during service, or at any other time, and any person who shall disturb or molest any minister celebrating any religious rite or office, in any street or other public place, or any other person aiding, assisting or attending at the celebration of such rite or office, shall forfeit any sum not exceeding five pounds, and in default of immediate payment may be imprisoned with or without hard labour for any term not exceeding one month.

Disturbing places of worship and molesting ministers performing functions.

Navy Discipline.

100. Any person who brings any spirituous or fermented liquor on board any of His Majesty's ships without the previous consent of the Officer commanding such ship or approaches or hovers about any of His Majesty's ships for the purpose of bringing any spirituous or fermented liquor on board the same without such previous consent or for the purpose of giving or selling without such previous consent spirituous or fermented liquor to men in His Majesty's Service or who aids or assists any Officer, seaman or marine in His Majesty's Service to desert or improperly absent himself from his ship shall on conviction thereof before a Stipendiary Justice forfeit and pay a sum not exceeding ten pounds for

every such act or offence; and it shall be lawful for any officer in His Majesty's service or warrant or petty officer of the Navy, or non-commissioned officer of marines, with or without seamen or persons under his command, to search any vessel hovering about or approaching or which may have hovered about or approached any of His Majesty's ships, and any such officer with or without seamen or persons under his command or any constable or peace officer with or without any warrant or other process may apprehend or cause to be apprehended any person contravening any of the provisions of this section and bring him or cause him to be brought before any Stipendiary Justice.

Any spirituous or fermented liquor found on board such vessel shall be seized and forfeited to His Majesty.

Authority to Arrest.

Arrest.

101. Every person found committing any offence punishable under this Ordinance may be taken into custody without a warrant by any police constable, or may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his servant or by any person authorised by him and may be detained until he can be delivered into the custody of a constable; and the person so arrested shall be taken as soon as conveniently may be before some Justice of the Peace to be examined and dealt with according to law: Provided always that no person so arrested shall be so detained in custody by any constable without the order of some Justice longer than shall be reasonably necessary for bringing him before a Justice, or than forty-eight hours at the utmost.

Defendant to be only liable once.

102. Every person convicted summarily who shall have paid the fine and costs, or been discharged therefrom by the Crown or shall have undergone imprisonment for non-payment thereof, or imprisonment adjudged in the first instance, or shall have been discharged from his conviction in manner aforesaid shall be released from all other proceedings for the same cause.

Miscellaneous.

Proof of Convictions.

103. In any proceedings under this Ordinance, production of a copy of the commitment certified under the hand of the Superintendent of Prisons or of the person for the time being acting as such, or production of the Police register

book of persons convicted of crime, upon proof of the identity of the person named therein, shall be sufficient proof that such person has been convicted of the offence therein specified.

Production of a certificate stating the substance and effect of any conviction or order, omitting the formal parts thereof, signed by the Clerk of the Peace for the time being, or other officer having the custody of the records of any court, upon proof of the identity of the person therein named shall be sufficient proof of such conviction, or that the order therein specified has been made against the person therein named.

No proof need be given of the signature or official character of any person signing such commitment or certificate as aforesaid.

104. On the trial or hearing of any information or proceeding under this Ordinance, proof of the meeting together of any convicted felons, persons convicted of riot or affray, common prostitutes, rogues and vagabonds, or incorrigible rogues, in any house, building, yard or other place, or of such persons playing or singing or dancing or gaming or betting therein shall be *prima facie* evidence that such person or persons as aforesaid had there met together or were remaining therein or were therein playing or singing or dancing or gaming or betting as aforesaid with the knowledge of the occupier of such house, building, yard or other place.

Prima facie
proof of know-
ledge against
occupiers.

105. Any person who shall aid, abet, counsel, or procure the commission of any offence punishable on summary conviction shall be liable to the same punishment as the principal offender, and may be proceeded against either with such principal offender, or before or after his conviction, and either in the district in which such principal offender may be convicted, or that in which the offence of aiding, abetting, counselling, or procuring may have been committed.

Aiders and
abettors.

Any person so aiding, abetting, counselling or procuring may be tried before any Justice having cognizance of the principal offence.

106. Nothing herein contained shall in any manner affect the jurisdiction or the power or authority of the Supreme Court to try any of the offences made punishable under this Ordinance or to limit the power of the said Court to award any punishment which may be awarded by the said Court for any of the said offences.

Jurisdiction
and powers of
Supreme
Court.

No. 6.

A N O R D I N A N C E to provide for the recovery of the possession of premises unlawfully held over, and to amend the law relating to Landlord and Tenant.

Short Title. 1. This Ordinance may be cited as the Summary Ejectment Ordinance.

2. In this Ordinance,

Interpretation. The word "Premises" means lands, houses or other corporeal hereditaments.

The word "Person" includes a body politic or corporate as well as an individual.

The term "Landlord" means the person entitled to the immediate reversion of the premises, or if the property be held in joint tenancy or tenancy in common means any of the persons entitled to such reversion.

The word "Agent" means any person usually employed by the Landlord in the letting of the premises or in the collection of the rents thereof or specially authorised to act in the particular matter by writing under the hand of such Landlord.

Persons holding over after determination of tenancy.

3. When and so soon as the term or interest of the tenant of any premises held by him at will or for any term not exceeding two years either without being liable to the payment of any rent or at a rent not exceeding the rate of two hundred and forty dollars a year shall have ended or shall have been determined by a legal notice to quit or otherwise and such tenant or (if such tenant do not actually occupy the premises or only occupy a part thereof) any person by whom the same or any part thereof shall be then actually occupied shall neglect or refuse to quit and deliver up possession of the premises or of such part thereof respectively it shall be lawful for the landlord of the said premises or his agent to make complaint on oath before the Stipendiary Justice of the Peace for the district in which such premises or any part thereof is situate. Such complaint may be in the form set forth in Schedule A to this Ordinance or such other form as the circumstances of the case may require.

Service and form of summons.

4. The Stipendiary Justice of the Peace shall upon such complaint issue a summons in the form set forth in Schedule B to this Ordinance or such other form as the circumstances

of the case may require, directed to such tenant or occupier and requiring him to appear before such Stipendiary Justice at such place and time not less than three days after the service of such summons as may be mentioned therein.

5. If the tenant shall not appear in obedience to such summons and show to the satisfaction of the Stipendiary Justice of the Peace reasonable cause why possession should not be given up and shall still neglect or refuse to deliver up possession of the premises or of such part thereof as he is then in possession of to the landlord or his agent, it shall be lawful for such landlord or agent to give to the Stipendiary Justice proof of the holding and of the end or other determination of the tenancy with the time and manner thereof, and where the title of the landlord has accrued since the letting of the premises the right by which he claims the possession, and upon proof of the service of the summons and of the neglect or refusal of the tenant or occupier as the case may be, it shall be lawful for such Stipendiary Justice to order such tenant or occupier to pay a fine not exceeding five pounds and the costs incurred by such landlord or agent and in default of payment thereof to be imprisoned with or without hard labour for any period not exceeding one month and such Stipendiary Justice shall issue a warrant under his hand to the Police constables of the district within which such premises or any part thereof is situate commanding them within a period to be named therein not less than three nor more than seven clear days from the date of such warrant to enter by force if needful into the premises and give possession of the same to such landlord or agent: Provided always that entry upon any such warrant shall not be made on a Sunday, Good Friday, Corpus Christi or Christmas Day. Such warrant may be in the form set forth in Schedule C or such other form as the circumstances of the case may require.

Consequence
of Tenant
disobeying
Summons.

6. Nothing in this Ordinance contained shall be deemed to protect any person on whose application and to whom any such warrant shall be granted from any action which may be brought against him by any such tenant or occupier for or in respect of such entry and taking possession where such person had not at the time of granting the same lawful right to the possession of the same premises.

Liability of
person on
whose applica-
tion warrant
is granted.

7. The summons directed to be issued under this Ordinance may be served either personally or by leaving the

Service of
Summons.

same with some person being in and apparently residing at the place of abode of the person holding over as aforesaid: Provided that if the person so holding over cannot be found and the place of abode of such person shall either not be known or admission thereto cannot be obtained for serving such summons the posting up of the said summons on some conspicuous part of the premises so held over shall be deemed to be good service on such person.

How execution
of warrants of
possession may
be stayed.

8. In every case in which the person to whom any such warrant shall be granted had not, at the time of granting the same, lawful right to the possession of the premises, the obtaining of any such warrant as aforesaid, shall be deemed a trespass by him against the tenant or occupier of the premises, although no entry shall be made by virtue of the warrant; and in case any such tenant or occupier becomes bound with two sureties, as hereinafter provided, to be approved of by the Stipendiary Justice of the Peace, in such sum as to him shall seem reasonable, regard being had to the value of the premises, and to the probable cost of an action, to sue the person to whom such warrant was granted, with effect and without delay, and to pay all the costs of the proceedings in such action in case judgment shall pass for the defendant, or the plaintiff shall discontinue or not prosecute his action, or the same shall be dismissed, execution of the warrant shall be delayed until judgment shall have been given in such action of trespass: and if, upon the trial of such action of trespass, judgment shall be given for the plaintiff, such judgment shall supersede the warrant so granted, and the plaintiff shall be entitled to double costs in the said action of trespass: Provided always that any person who shall have obtained such warrant as aforesaid shall be at liberty by serving a notice in writing, within two days from the day of obtaining the warrant, on the occupier of the premises, of his intention to abandon the warrant, then and in such case all further proceedings, on both sides, upon or in respect of such warrant shall forthwith cease.

Abandonment
of warrant.

Proceedings on
Bond in actions
of trespass.

9. Every such bond as hereinbefore mentioned shall be made to the said landlord or his agent, at the cost of such landlord or agent, and shall be approved of and signed by the Stipendiary Justice of the Peace: and if the bond so taken be forfeited, or if, upon the trial of the action for securing the trial of which such bond was given, the Court by which it shall be tried shall not order, and cause to be

entered upon the proceedings, that the condition of the bond has been fulfilled, the party to whom the bond shall have been so made, may bring an action, and recover thereon.

10. It shall not be lawful to bring any action or prosecution against the Stipendiary Justice of the Peace by whom such warrant as aforesaid shall have been issued or against any Police constable by whom such warrant may be executed, for issuing such warrant or executing the same respectively, by reason that the person on whose application the same shall have been granted had not lawful right to the possession of the premises.

Protection of
Justices, Con-
stables, &c.

11. Where the landlord, at the time of applying for such warrant as aforesaid, had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said landlord, nor his agent, nor any other person acting in his behalf, shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Ordinance, but the party aggrieved may, if he think fit, bring an action for such irregularity or informality, in which the damage alleged to be sustained thereby shall be specially laid, and may recover full satisfaction for such special damage, with costs of suit: Provided, that if the damage so laid be not proved, the defendant shall be entitled to a judgment, and that if proved, but assessed by the Court at any sum not exceeding one pound the plaintiff shall recover no more costs than damages, unless the Court before which the trial shall have been held shall declare, and then cause to be certified upon the proceedings, their opinion that full costs ought to be allowed.

Where Land-
lord has lawful
title, he shall
not be deemed
a trespasser by
reason of
irregularity,
but be liable
in an action for
special damage
proceeding
from irregu-
larity.

12. Notwithstanding any law or custom to the contrary and in the absence of any express agreement to the contrary every monthly tenancy shall be determinable at any time during the month by fourteen days notice to quit, such notice to date from the day on which it is served on the tenant.

Notice to quit.

This Section shall not apply to any tenancy the rent in respect of which shall exceed the rate of two hundred and forty dollars per annum.

SCHEDULE A.

COMPLAINT.

The complaint of (owner or agent, &c., as the case may be) made before me, Stipendiary Justice of the Peace for , who makes oath and says that the said did let to a tenement consisting of for under the rent of , and that the said tenancy expired (or was determined) by notice to quit, given by the said on the day of 19 , and that the said refused (or neglected) to deliver up possession of the said tenement, and still detains the same, although he has been required to deliver up the possession thereof.

Sworn before me, the }
day of 19 . }
(Sgd.) A.B.

SCHEDULE B.

SUMMONS.

Whereas complaint on oath has been made before me, Stipendiary Justice of the Peace for by against for having refused or neglected to deliver up the possession of a certain tenement, consisting of , after the expiration of the tenancy under which the same was held by the said : Now I do hereby summon you, the said , to appear before me, at on the day of 19 at the hour of , then and there to answer the said complaint, and to shew cause, if any you can, why a warrant should not be issued to put the said into peaceable and quiet possession of the said tenement.

SCHEDULE C.

WARRANT TO CONSTABLES TO TAKE AND GIVE POSSESSION.

Whereas (set forth the complaint) I, Stipendiary Justice for do authorize and command you, on any day within days from the date hereof (except on Sunday, Good Friday, Corpus Christi, and Christmas day, to be added if necessary) between the hours of nine in the forenoon, and four in the afternoon, to enter (by force if needful) and with or without the aid of (the owner or agent, as the case may be) or any person or persons whom you may think requisite to call to your assistance into and upon the said tenement and to eject thereout any person, and of the said tenement full and peaceable possession to deliver to the said (the owner or agent.)

Given under my hand, this day of 19 .
To and all }
other Police constables acting for the dis- }
trict or division, etc., etc.

No. 7.

AN ORDINANCE for the prevention of wilful trespasses on lands.

1. This Ordinance may be cited as the Civil Trespass Short title. Ordinance.

2. Every person who shall be found in the night time in any enclosed yard, garden, or ground, or any cultivated lands or in or about the works of any plantation, and who, on being taken before a Justice of the Peace shall fail to make it appear to the satisfaction of such Justice that he had some reasonable cause or excuse for being in the place where he shall be so found, shall, on summary conviction thereof be imprisoned with hard labour for such term, not exceeding three calendar months, as to the convicting Justice shall seem fit.

Persons found in or about enclosed yard or cultivated lands &c., at night.

3. If any person shall be found at any time in any lands on which, or near to which, there shall be stuck up in some conspicuous place a notice in legible letters, forbidding all persons to trespass, not having some reasonable cause or excuse for being in the place where he shall be so found, or if in the absence of such notice, any person shall be found in any lands, and shall refuse to quit the same upon request to him made by the owner of such lands, or his servant, every such offender shall on summary conviction be liable to a penalty of not less than one pound, and not exceeding five pounds, and in default of payment thereof shall be imprisoned with hard labour for any term not exceeding two calendar months : Provided always that every labourer or other servant, having or occupying any house or cottage, or any room in any house or cottage, on any lands, and the members of his family actually residing thereat with him shall not be liable to any forfeiture under this Ordinance by reason of his or their passing along or upon any road, path or way leading from any public high road to such house or cottage.

Trespass on lands where notice is placed or refusing to quit.

4. If any person shall fasten any vessel, boat or craft to any private wharf or landing place, or shall land, place or put any matter or thing whatsoever upon any such wharf or landing place on which or near to which there shall be stuck up a notice in legible letters forbidding all persons to trespass, every such offender, on summary conviction thereof shall be liable to the same penalty as in the last section mentioned,

Fastening vessel, &c., to private wharf or landing place, where there is notice.

Offenders may
be apprehen-
ded.

5. It shall be lawful for any Police constable or the owner of the lands upon which such offence shall be committed, or his servant, or any person authorised by such owner to seize and apprehend such offender upon such lands, or in case of pursuit being made, in any other place to which he may have escaped therefrom, and to deliver him as soon as may be into the custody of the Police at the next Police station, to be dealt with according to law.

Timber, &c.
may be
detained.

6. It shall be lawful for the owner of any lands, or his servant, or any person authorised by him, to seize and detain any timber, lumber, wood, underwood, charcoal, sugar canes, cocoa, coffee or other produce which shall be found upon the land of such owner, and which there shall be reasonable cause to suspect to have been felled, cut, burned, or prepared upon such lands, and also to seize and detain any boat, cart, carriage, horse, ox, mule, or other animal employed in or for the purpose of carrying or removing the same, and to cause the same to be taken to the next police station ; and such timber, lumber, wood, underwood, charcoal, sugar canes, cocoa, coffee, or other produce, shall be deemed the property of the owner of such lands, and may be disposed of in such manner as to the owner of such lands may seem fit, and such boat, cart, carriage, horse, ox, mule, or other animal shall be forfeited to His Majesty, and may be sold by the order of any Justice of the Peace, and the proceeds thereof paid into the Colonial Treasury for the use of the Colony, unless within three days from the day of the same being so seized the owner thereof shall claim the same, and shall, within the said term of three days, or such further term as such Justice may allow, prove to the satisfaction of such Justice that such timber, lumber, wood, underwood, charcoal, sugar canes, cocoa, coffee, or other produce was not felled, cut, burned, or prepared on the lands on which the same shall have been so seized.

Timber, &c.,
to be deemed
property of
person on
whose land
it may be
found.

Constables to
assist in
apprehension
of offenders.

7. Every constable shall assist in the apprehension of any person found committing any offence against this Ordinance whenever required so to do by the owner or any servant of the owner of the lands upon or in respect whereof such offence shall be committed.

Cases wherein
question of
title to land
arises.

8. Nothing herein contained shall authorize any Justice of the Peace to determine any case of trespass in which any question shall arise as to the right or title to any lands,

tenements or hereditaments, or any interest therein or accruing therefrom.

9. The prosecution for any offence punishable on summary conviction under this Ordinance shall be commenced within three calendar months next after the commission of the offence, and not otherwise, and the evidence of the party aggrieved shall be admitted in proof of the offence.

Prosecutions
to be com-
menced within
three months.

10. The information for any offence against this Ordinance may be laid (a) where the lands shall belong to His Majesty by any Inspector of Police or constable, the Sub-Intendant of Crown Lands, the Warden of the district in which such Crown Land may be situate, the head of the department or other officer under whose special charge any such Crown land may be, or by any public officer or any other person not being in the public service authorised in writing by such Sub-Intendant, Warden or head of department or public officer as aforesaid, and (b) may be laid in the name of the owner of the lands or the manager, bailiff or other person having the charge of such lands where the same shall not be Crown Lands.

By whom
information
may be laid.

Production of any authority to any public officer or other person to lay an information under this Ordinance purporting to bear the signature of any of the functionaries aforesaid entitled to give such authority shall be received in all Courts of Justice as *prima facie* evidence thereof without any proof of such signature.

Evidence.

11. Every forfeiture shall be paid to the owner of the lands upon which such offence shall have been committed or to the manager or other person having the chief charge of such lands for the use of such owner, unless such owner shall have been examined in proof of the offence, and in that case, or when the lands upon which such trespass shall have been committed shall be Crown Lands, such sum shall be paid into the Colonial Treasury for the use of the Colony.

Application of
forfeitures.

12. In case any person convicted under this Ordinance shall have paid the sum adjudged to be paid, or shall have suffered the imprisonment awarded for non-payment thereof or the imprisonment adjudged in the first instance, in every such case he shall be released from all further or other proceedings for the same cause,

Where
penalty shall
be enforced,
offender to be
released.

Interpretation. 13. In the construction of this Ordinance the word "night time" shall include any time between seven o'clock of the afternoon of one day and six o'clock in the morning of the next day ; the word "owner" shall extend and be applied to the tenant, occupier or other person having the possession of any land ; and the word "person" shall extend and be applied to any body politic, corporate or collegiate as well as to an individual, unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

No. 8.

AN ORDINANCE relating to Coroners.

1. This Ordinance may be cited as the Coroners' Ordinance. Short title.

2. In this Ordinance

The term "police officer" includes any police officer, Interpretation. commissioned or non-commissioned, any police constable and any rural or estate constable.

The term "view" includes the making of any necessary external examination.

The term "prescribed" means prescribed by the Governor either by General Regulations or in a particular case.

3. Every Stipendiary Justice of the Peace shall be a Stipendiary Justices of the Peace to be Coroners. Coroner for the whole Colony, but he shall not unless required by the Governor be bound to act as such Coroner beyond the limits of the district assigned to him under the Summary conviction offences (Procedure) Ordinance. No. 1.

4. A Coroner, as such Coroner, shall have no other rights, Functions of Coroners. powers, duties, functions or liabilities than those which are conferred or imposed upon him by this Ordinance.

Inquest as to Death.

5. Any one discovering the body of any deceased person Discovering of body. who apparently was slain or died suddenly or under circumstances of suspicion shall forthwith and without removing or in any manner altering the position of the body except so far as is necessary for the safe custody thereof give notice of such discovery to the medical officer of the district in which the body was discovered or to some police officer, and such police officer shall forthwith cause information to be given to such medical officer.

The keeper of any prison within which a prisoner dies shall forthwith give notice of such death to the Coroner and the district medical officer within whose respective districts the prison is situate.

6. The district medical officer of any district shall view, View of body by medical officer. and if he deems it necessary for the purposes of this Ordinance, make an anatomical examination of the unburied body of any deceased person within his district,—

1. As to whom such district medical officer has

ground for believing that he was slain, or that he died suddenly, or under circumstances of suspicion ; or,

2. Who died while confined as a prisoner in any prison ; or
3. Whose body the Coroner within whose district the body is directs such district medical officer to view ; or
4. As to whose death an inquest is prescribed.

As soon as the district medical officer has completed his view and anatomical examination (if any), it shall be lawful to bury the body, unless the district medical officer otherwise directs, and the district medical officer may if he sees fit give order for such burial.

Power to
exhume.

7. A Coroner may if he thinks fit and whether an inquest is pending or not, order that the body of any deceased person be exhumed and direct that it be viewed and if necessary anatomically examined by the medical officer of the district in which the body is buried.

Report by
medical
officer.

8. Where a district medical officer has viewed the body of any deceased person, he shall make a report as to the cause of death to the Coroner within whose district the view took place, and in such report he shall state whether in his opinion any further inquiry ought to be made as to the circumstances under which the deceased came by his death.

Inquest after
report.

9. A Coroner having received the report of a district medical officer as to the cause of death of any deceased person, shall hold an inquest as to the cause and circumstances of such death in either of the following cases, that is to say :—

1. If the district medical officer reports that further inquiry ought to be made ; or,
2. If the circumstances of the case appear to the Coroner to render it proper to hold an inquest, although the district medical officer does not report that further inquiry ought to be made.

Inquest on
prisoner.

10. A Coroner, where there is in his district the body of any person who died in any prison or as to whose death an inquest is prescribed, shall hold an inquest as to the cause and circumstances of such death, whether the district medical officer does or does not make a report thereon.

Inquest
without
report.

11. Where a Coroner has reasonable ground to believe or suspect that any deceased person whose body is within his

district was slain or died suddenly or under circumstances of suspicion, if he thinks the circumstances of the case so require, he may, at any time and without waiting for the report of the district medical officer, hold an inquest as to the cause and circumstances of the death of such deceased person.

12. In case of the absence or inability to act of any district medical officer a Coroner may appoint any member of the Medical Board a substitute for such district medical officer, but such appointment shall have no operation beyond the limits of the district for which the Coroner is acting.

Substitute
for medical
officer.

A substitute appointed under this section shall perform the duties by this Ordinance imposed and have the powers by this Ordinance conferred upon a district medical officer, and the same consequences shall follow his report and proceedings as under this Ordinance would follow the report and like proceedings of a district medical officer.

13. Every district medical officer or his substitute shall be entitled to receive in respect of the body of any deceased person viewed by him the sum of one pound for the report which he is by this Ordinance required to make to the Coroner and for the anatomical examination (if any) of such body the further sum of one pound, and shall also be bound if required by the Coroner to attend as a witness before the Coroner without further fee or allowance, except such allowance for mileage as the Governor from time to time either by general regulations or in particular cases appoints. Money payable under this section shall be paid out of the Colonial Treasury under such regulations as the Governor from time to time appoints.

Remuneration
of medical
officer.

14. Any Coroner may hold an inquest as to the death of any person without viewing the body of such person.

View of body
unnecessary.

15. Any person who knowingly inters or assists in interring the body of any person slain or dead suddenly or under circumstances of suspicion without reasonable notice first given to the district medical officer or some Coroner or police officer or who conceals or with intent to prevent or obstruct inquiry removes any such body shall be guilty of a misdemeanour, and being convicted thereof before the Supreme Court may be fined in any sum not exceeding two hundred pounds or imprisoned with or without hard labour for any term not exceeding five years.

Penalty on
secret
interment.

*Mortuaries.***Mortuaries.**

16. It shall be lawful for the Governor to cause to be provided and maintained within the Colony, if it should appear to him necessary and desirable, fit and proper places for the reception of dead bodies during the time required to conduct any post mortem examination ordered by a Coroner, district medical officer or other constituted authority, and to frame regulations with respect to the management of such places, and where any such place has been provided a Coroner, district medical officer or other constituted authority empowered to direct the making of a post mortem or anatomical examination of the body of any deceased person may order the removal of the body to and from such place for carrying out such post mortem or anatomical examination, and the costs of such removal may be paid in the same manner and out of the same funds as the costs and fees for anatomical or *post mortem* examinations made under this Ordinance.

*Inquest as to Fire or Treasure-trove.***Inquest as to fire.**

17. Where a Coroner is informed by the oath of any person that in his district any house, cottage, mill, boiling-house, megass-house, crop, cane-piece or plantation is wholly or partially destroyed by fire, such Coroner shall hold an inquest as to the cause and circumstances of such fire.

Treasure-trove.

18. In the case of treasure-trove His Majesty shall enjoy the same rights and prerogatives, and the Coroner shall have the same powers and duties as they respectively enjoy and have by the laws of England.

Proceedings at Inquest.

19. Every inquest under this Ordinance shall be a judicial inquiry and may be held as well on Sunday as on any other day. The Coroner may by summons require any person to appear before him and give evidence.

Disobedience to summons.

20. If without sufficient excuse a witness does not appear in obedience to a summons duly served on him, the Coroner may issue a warrant under his hand to compel his appearance at a time and place to be mentioned in the warrant.

Warrant for witness.

21. If oath be made before a Coroner that material evidence can be given by any person who will not voluntarily attend, it shall be lawful for such Coroner, if he is satisfied that such person will not attend unless compelled

at once to issue a warrant under his hand for the arrest and production of the witness at a time and place to be specified in the warrant.

22. If a witness on his appearance refuses to make such oath, affirmation or declaration as is required by law, or refuses without just excuse to answer any question put to him, he shall forfeit such sum not exceeding twenty pounds as to the Coroner seems fit, and in default of immediate payment may be imprisoned for such term not exceeding three months as to the Coroner seems fit, such imprisonment to cease on payment of the fine the amount whereof shall be stated in the warrant of commitment, but payment of such fine or imprisonment in default thereof shall not exempt the witness from being again summoned or arrested.

Refusal of
witness to be
examined.

23. The evidence of every witness shall be taken down in writing in the form of a deposition, which shall be read over to the witness and signed by the Coroner and the witness, or in case of the incapacity or refusal of the latter to sign the same then by the Coroner and some other person in whose presence the deposition was taken, and such deposition shall be admissible in evidence in any proceedings in the cases in which and subject to the conditions subject to which in similar proceedings in England the like deposition taken by or before a Coroner in England would be admissible in evidence.

Depositions.

This section shall not derogate from the admissibility in evidence of any such deposition independent of this Ordinance.

24. Any person who obstructs a district medical officer in the execution of any duty imposed upon him by this Ordinance shall be guilty of an offence punishable on summary conviction, and may be imprisoned for any term not exceeding fourteen days, or may be fined in any sum not exceeding ten pounds, and in default of payment imprisoned for any term not exceeding fourteen days, such imprisonment to cease on payment of the fine the amount whereof shall be stated in the warrant of commitment.

Obstructing
medical
officer.

25. A Coroner holding an inquest in any place may adjourn the inquest to another day whether the same be Sunday or any other day, and order the adjourned inquest to be held in the same or any other place.

Adjournment
of inquest.

26. If in the course of an inquest as to any death or fire the Coroner is of opinion that sufficient grounds have been

Staying
inquest.

disclosed for preferring a charge of felony against any person, the Coroner shall stay the inquest until the person to be charged is committed for trial or discharged by a Magistrate, or it appears improbable that such person will be found.

Resuming
inquest.

27. Where an inquest is stayed in consequence of grounds for a charge of felony being disclosed, if the person charged is committed for trial or discharged by a Magistrate, the Coroner may resume and conclude the inquest if he is of opinion that public benefit is likely to result from his so doing, but if he is of opinion that no public benefit is likely to result from his so doing, he shall certify his opinion to that effect and transmit the proceedings to the Attorney-General.

Where an inquest is stayed in consequence of grounds for a charge of felony being disclosed and it is ascertained that the person to be charged cannot be found the Coroner shall resume and conclude the inquest.

Prosecution
by coroner's
order.

28. If during the course or at the close of any inquest the Coroner is of opinion that sufficient grounds are disclosed for making a charge of felony against any person, he may issue his warrant for the apprehension of such person and taking him before a Stipendiary Justice and may bind over any witness who has been examined by or before him in a recognizance with or without surety to appear and give evidence before such Justice.

Where guilty
party
unknown.

29. If at the close of any inquest the Coroner is of opinion that there is ground for suspecting that some person is guilty of felony in respect of the matter inquired into but cannot ascertain who such person is he shall certify his opinion to that effect and transmit the proceedings to the Inspector-General of Police.

Where guilty
party cannot
be found.

30. Where the proceedings upon any inquest have been transmitted to the Inspector-General of Police under this Ordinance, if the Inspector-General is satisfied that due diligence has been used by the police to discover the guilty person or persons, but such person or persons remain undiscovered and there is in the opinion of the Inspector-General no probability that such person or persons will be discovered, he shall certify his opinion to that effect and transmit the proceedings to the Attorney-General.

Where no
ground of
suspicion.

31. If at the close of any inquest as to any death or fire the Coroner is of opinion that there is no ground for suspect-

ing that any one is guilty of felony in respect of the matter inquired into he shall certify his opinion to that effect and transmit the proceedings to the Attorney-General.

32. The Attorney-General shall from time to time cause to be delivered to the Registrar of the Supreme Court the proceedings upon all inquests transmitted to him and thereupon such Registrar shall take charge of such proceedings and shall keep a proper index of the same. Custody of proceedings.

33. All general regulations made by the Governor under this Ordinance shall be published in the *Royal Gazette*. Publication of regulations. Production of a copy of the *Royal Gazette* purporting to contain any such regulations shall be *prima facie* evidence of the tenor and due making thereof.

No. 9.

AN ORDINANCE to provide for the administration of
“The Extradition Acts 1870 and 1873”.

1. This Ordinance may be cited as the Extradition Ordinance.

2. All powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom under “The Extradition Acts 1870 and 1873,” are hereby vested in and may in this Colony be exercised and done by any Stipendiary Justice of the Peace in relation to the surrender of fugitive criminals under the said Acts.

No. 10.

AN ORDINANCE for facilitating the apprehension of certain offenders escaping to this Colony from the Republic of Venezuela.

Short title. 1. This Ordinance may be cited as the Venezuela Extradition Ordinance.

Persons guilty of certain offences committed in Venezuela and escaping to this Colony may be apprehended on requisition of Venezuelan Government.

2. In case requisition shall at any time be made by the Government of the Republic of Venezuela to deliver up to justice any person who, being charged with the crime of murder, or of attempt to commit murder, or of arson, or of rape, or of robbery, or of forgery, or of the utterance of any forged security for money, committed within the jurisdiction of the said Republic of Venezuela shall be found within the Colony of Trinidad and Tobago or any of its dependencies, it shall be lawful for the Governor or other officer administering the Government of this Colony, if he shall think fit, but not otherwise, by warrant under his hand and seal to signify that such requisition has been so made, and to require all Justices of the Peace, and other Magistrates and officers of justice within their several and respective jurisdictions to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to gaol for the purpose of being delivered up to justice, and thereupon it shall be lawful for any Justice of the Peace or Magistrate in this Colony, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as, according to the law of this Colony, would justify the apprehension and committal for trial of the person so charged, if the crime or offence with which he shall be so charged had been committed within this Colony, to issue his warrant for the apprehension of such person, and also to commit such person to gaol, there to remain until delivered pursuant to such requisition as aforesaid.

Copies of depositions to be received as evidence.

3. In every such case copies of the deposition or depositions upon which the original warrant for the apprehension of the offender issued by the Magistrate or other authority in Venezuela was granted certified under the hand and seal of office of the officer of the said Republic making such requisition, may be received in evidence of the criminality of the person so apprehended.

4. Upon the certificate of such Justice of the Peace or Magistrate, that such supposed offender has been so committed to gaol, it shall be lawful for the Governor or officer administering the government of this Colony, by warrant under his hand and seal to order the person so committed to be delivered to such person or persons as shall be authorized by any warrant under the hand of the officer of the said Republic making such requisition as aforesaid to receive the person so committed, and to convey such person to the place where the crime or offence with which such person is charged was committed, there to be tried for such crime or offence, and such person shall be delivered up accordingly; and it shall be lawful for the person or persons authorized as aforesaid to hold such person in custody, and take him or her to the place where such crime or offence was committed; and if the person so accused shall escape out of any custody to which he or she shall be committed, or to which he or she shall be delivered as aforesaid, it shall be lawful to retake such person in the same manner as any person accused of any felony committed within this Colony may be retaken upon an escape.

Offenders may be delivered up to officers appointed by Government of Venezuela, and escaping may be retaken.

5. Where any person who shall have been committed under this Ordinance to remain until delivered up pursuant to requisition as aforesaid, shall not be delivered up pursuant thereto and conveyed out of this Colony within three calendar months after such committal, it shall in every such case be lawful for the Supreme Court of this Colony or any Judge thereof, upon application made to them or him by or on behalf of the person so committed, and upon proof made to them or him that reasonable notice of the intention to make such application has been given to the Attorney-General, to order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such Court or Judge why such discharge ought not to be ordered.

Offenders not delivered up within three months after apprehension may be discharged.

No. 11.

AN ORDINANCE to make provision for the Extradition of fugitive criminals from French Guiana.

Short title. 1. This Ordinance may be cited as the French Guiana Extradition Ordinance.

Interpretation. 2. In this Ordinance,

The term "Governor of French Guiana" means the Officer for the time being administering the Government of French Guiana.

The term "Extradition Acts" means "The Extradition Acts, 1870 and 1873," and includes any Act of Parliament hereafter to be passed relating to the extradition of persons accused or convicted of crime.

The term "fugitive criminal" means any person accused or convicted of any crime in respect of which extradition may be lawfully granted under the provisions of any Order in Council applying the Extradition Acts who may be lawfully surrendered under the provisions of any Order in Council applying the said Acts as regards the Colonies and foreign possessions of France.

Power to detain persons suspected of being fugitive criminals from French Guiana. 3. Any commissioned or non-commissioned officer of police or police constable of the Police force of this Colony may arrest and detain any person whom there is reasonable cause to suspect of being a fugitive criminal from French Guiana.

Every person so arrested and detained shall be brought before a Stipendiary Justice of the Peace as soon after the arrest as may be practicable, and if it appears from the evidence adduced to the Justice that there is reasonable cause to suspect that such person is a fugitive criminal from French Guiana it shall be lawful for such Justice to call upon such person to declare

(a.) His name, and the country to which he belongs or is subject ;

(b.) The port or place from whence he came ;

(c.) The vessel by which, and the day on which, he arrived in the Colony :

and for the purpose of identification to order such person to be photographed.

If such person fails to make it appear to the satisfaction of such Stipendiary Justice that he is not a fugitive criminal from French Guiana the Justice shall thereupon order that such person shall be detained in custody until the Governor's pleasure be known, and shall thereupon issue his order of detention which may be in the form in the Schedule or in such other form as the circumstances may require.

The person referred to in any such Order may be detained in custody thereunder for any period not exceeding three months, but for no longer period ; and may during such period be detained in any prison, Police station, or convenient place, and may from time to time be removed from any one place to any other by order of the Inspector-General of Police or any Stipendiary Justice of the Peace.

Where several persons whom there is reasonable cause to suspect of being fugitive criminals from French Guiana arrive in the Colony together, it shall not be necessary to take separate proceedings under this section against each such person, but the proceedings may be against all at the same time and the order of detention of the Stipendiary Justice may apply to any or all of such persons whom there is reasonable cause to suspect of being such fugitive criminals.

The Inspector-General shall cause the Stipendiary Justice to be furnished with a full description in writing of each person brought before such Justice under this section.

Where a Stipendiary Justice makes an order of detention under this section, he shall forthwith transmit a description of the persons therein mentioned with a copy of the proceedings and order to the Colonial Secretary for the information of the Governor.

The Governor may at any time order any person referred to in such order to be released from custody.

4. Where requisition is made for the extradition of any person who is detained in custody under the provisions of this Ordinance the same proceedings in all respects shall be taken as if such person were not so detained.

5. Where requisition is made by the Governor of French Guiana for the surrender of a fugitive criminal the Governor may by order under his hand signify to the Stipendiary Justice of the Peace of Port-of-Spain that such requisition

Governor may
require Magis-
trate to
proceed.

has been made and require him to issue his warrant for the apprehension of the fugitive criminal, and thereupon such Stipendiary Justice if the fugitive criminal is brought before him, shall hear the case and shall have the like jurisdiction and powers as are given to Police Magistrates and Justices of the Peace under the Extradition Acts.

If such Stipendiary Justice commits any such fugitive criminal to prison there to await the warrant of the Governor for the surrender of such fugitive criminal, he shall forthwith send to the Governor a certified copy of all the proceedings, together with the photograph of such fugitive criminal, a certificate of the committal and such report upon the case as he may think fit.

Where French authorities unable to send officer to identify or receive criminal.

6. Where the Governor of French Guiana makes requisition for the extradition of a fugitive criminal and transmits properly authenticated documents describing the person for whom such requisition is made but is unable from quarantine regulations or other causes to despatch any officer to identify or receive such fugitive criminal the following procedure shall be lawful, that is to say :—

Where the person who is suspected to be such fugitive criminal is brought before the Stipendiary Justice of the Peace of Port-of-Spain it shall be lawful for such Justice, if satisfied either from the description stated in such authenticated documents or otherwise, that the person brought before him is the person for whose extradition requisition has been made, and that such person is a convicted and fugitive criminal from French Guiana, to commit such person to prison there to await the warrant of the Governor for his surrender ; and no evidence that the Governor of French Guiana is unable to despatch any such officer shall be necessary.

Where the Governor is satisfied that any person in custody is a fugitive criminal from French Guiana and for whose extradition requisition has been made, and that such criminal ought to be surrendered under the provisions of any Order in Council applying the Extradition Acts, it shall be lawful for the Governor on the application of any person recognized as the Consular Agent of France in this Colony, after the expiration of the period required by the Extradition Acts, to authorize and direct the Inspector-General of Police or any Inspector of Police to convey such fugitive criminal

and cause him to be placed on board any vessel proceeding to French Guiana.

7. Any extract purporting to be an extract from any register of convicted criminals in French Guiana giving a description of the criminal and stating the particulars of conviction, the crime of which the criminal was convicted, the sentence passed on the convicted criminal and the date thereof, or stating any of such particulars, if authenticated by a Seal purporting to be the Seal of the Governor of French Guiana, may be received in any proceedings relating to the extradition of any person alleged to be a fugitive criminal from French Guiana as *prima facie* evidence of all the facts therein set forth.

Authenticated
extracts from
registers to be
prima facie
evidence.

SCHEDULE.

FORM OF ORDER OF DETENTION.

WHEREAS it appears to me that there is reasonable cause to suspect that _____ is a fugitive criminal (or are fugitive criminals) from French Guiana, I do hereby order that he (or they) be detained in custody until the Governor's pleasure be known.

Given under my hand, this day
of 190

E. F.,

Stipendiary Justice of the Peace.

No. 12.

AN ORDINANCE as to Animals Trespassing.

- Short title.** 1. This Ordinance may be cited as the Pound Ordinance.
- Interpretation.** 2. In this Ordinance the term "poundable animal" means any horse, mare, gelding, colt, filly, ass, mule, bull, cow, ox, steer, heifer, calf, goat, kid, sheep, lamb, hog, sow, pig, or other great or small cattle.
- Appointment of pounds.** 3. It shall be lawful for the Stipendiary Justice of any district in which there are no pounds or an insufficient number of pounds to authorise the establishment therein of such pounds as he thinks necessary. Such pounds shall be erected at the expense of, and be the property of, the Colonial Government.
- Management of pounds.** 4. The chief officer of Police in every police district shall act as pound-keeper of all pounds in his district unless some other person is appointed by the Stipendiary Justice of the district with the approbation of the Governor. Every pound-keeper shall be entitled to demand the pound fees specified in Schedule II and to apply to his own use the whole amount of such fees payable in respect of the feeding of the animal and half the amount of the other pound fees. The other half of such other pound fees he shall once in every month pay over to the Stipendiary Justice of the district to be paid by him to the Receiver-General for the use of the Colony.
- Animals trespassing.** 5. The owner or occupier of any enclosed, cultivated, or pasture land, or any person authorized by him may seize any poundable animal found trespassing on such land and may send or take every such animal to the pound of the district or place in which such land or any part of it is situate, or to the nearest pound, to be detained and dealt with according to this Ordinance :
- Provided that—
1. The owner or occupier of the land trespassed upon may secure and keep any animal seized under this section before sending the same to the pound for any time not exceeding two days after the day of seizure; and,
 2. Where any animal has been seized under this section, if the owner of such animal or any person

lawfully authorised by him at any time before such animal is received into the pound pays for the use of the owner or occupier of the land trespassed upon to the person having the charge of such animal the seizure fee specified in Schedule I, the person having charge of such animal shall upon such payment being made deliver the animal to the person making the payment.

6. Any poundable animal found tethered, wandering, straying or lying in any public place, square, quay, wharf or highway may be seized and sent or taken to the pound by any person finding the same, but no seizure fee shall be payable in respect of any such animal. Animals improperly on highways.

7. The owner or occupier of any enclosed, cultivated or pasture land, or any person authorized by him may shoot or kill with a cutlass or other cutting instrument any hog, sow, pig, goat or kid found trespassing on such land, and if the owner of the animal does not claim the same within six hours after it is killed, may bury the carcase. Swine or goats trespassing.

8. When any animal is brought to any pound it shall be the duty of the pound-keeper to make, and of the person bringing the animal to the pound to answer, all such inquiries as are likely to make known the owner or person having the charge of the animal. Any person bringing an animal to the pound who upon any inquiry being made of him pursuant to this section does not according to the best of his knowledge, remembrance, information and belief truly answer such inquiry shall be guilty of an offence against this Ordinance, and on conviction thereof shall incur a penalty not exceeding five pounds. Inquiry as to ownership of animals impounded.

9. Where any animal is impounded the pound-keeper shall serve notice of such animal being impounded upon the owner or person having the charge of the animal by leaving such notice at the usual place of abode or business of the person to be served in all cases in which such pound-keeper by any means obtains sufficient information to enable him to effect such service. Notice to owner of animal impounded.

Any pound-keeper who omits to give notice as required by this section shall be guilty of an offence against this Ordinance and on conviction thereof shall incur a penalty not exceeding five pounds.

A pound keeper who gives notice under this section shall be entitled to receive in respect of such notice the sum in that behalf specified in Schedule II.

Costs of keep-
ing animal in
pound.

10. Where any animal has been impounded and notice of such impoundment has been served under Section 9 upon the owner or person having the charge of such animal such owner or person shall in default of such animal being sold for a sum sufficient to defray such costs and charges be liable to pay the costs of keeping the animal in the pound until the same can legally be offered for sale under Section 16.

Notice where
owner of
animal not
known.

11. If at the expiration of the day after any animal is impounded the pound-keeper is unable to ascertain who is the owner or person having the charge of such animal, such pound-keeper shall cause a notice of the impounding of the animal to be posted at the police station of the district in which the pound is situate, and at any other place which the Inspector-General of Police directs.

A pound-keeper who omits to cause to be posted the notices required by this section shall be guilty of an offence against this Ordinance, and on conviction shall incur a penalty not exceeding five pounds.

Fraudulent
impounding.

12. Any person who drives, leads or entices any animal into any land or into any public place, square, quay, wharf or highway with intent to impound such animal or to procure the same to be impounded, shall be guilty of an offence, and on conviction thereof may be fined any sum not exceeding twenty pounds, or be imprisoned with or without hard labour for any term not exceeding three months.

Rescuing
animals
impounded.

13. Any person who rescues or releases or attempts to rescue or release any animal while in or being taken to any pound, or breaks or injures any pound, or does, or aids or abets the doing of any act whereby any animal impounded may escape or be unlawfully liberated shall be guilty of an offence against this Ordinance, and on conviction shall incur a penalty not exceeding twenty pounds.

Ill-treating or
injuring
animals
impounded.

14. Any pound-keeper or person taking an animal to the pound, who cruelly beats, wounds or otherwise ill-treats or who wilfully injures or damages any animal in his charge, shall be guilty of an offence against this Ordinance, and on conviction thereof shall incur a penalty not exceeding ten pounds.

15. Any animal received into any pound under this Ordinance shall be detained until sold under this Ordinance, unless before the time for such sale the seizure fee specified in Schedule I, where payable, and the pound fees specified in Schedule II, are paid. Disposal of impounded animals.

16. The keeper of any pound may on such days as the Inspector-General from time to time directs, put up for sale by public auction any animal which has been detained for more than ten days, exclusive of the days of seizure and sale, and sell and deliver such animal to the best bidder for ready money for the same on receiving the amount of the bidding, and if such amount be not forthwith paid may put up the animal again for sale. Public notice of every sale under this section shall be given as the Inspector-General directs. Out of the moneys received by any sale under this section the pound-keeper shall in the first place deduct the pound fees, and out of the surplus shall pay on demand the seizure fee to the person whose land was trespassed upon when he attends and demands the same, and shall pay the balance of such surplus (if any) to any person known to be the owner of the animal, and who attends and demands such balance: Provided that if no person having authority to receive such surplus or the balance of such surplus attends to demand the same before the expiration of the day of sale, the pound-keeper shall forthwith pay such surplus or the portion thereof remaining in his hands to the Stipendiary Justice of the District in which the pound is situate, to be kept by him until the person or persons respectively entitled thereto appear before such Justice and prove their claims to the same. Sales of impounded animals.

If at the expiration of twelve months after any sale under this section the Stipendiary Justice has in his hands any portion of the moneys received on account of such sale, he shall forthwith pay the same over to the Receiver-General for the use of the Colony, and all rights to the moneys so paid over shall thereupon be extinguished.

17. In case a poundable animal is offered for sale and no offer is made for it or the offer made is in the opinion of the pound-keeper trifling or insufficient to defray the costs and charges under this Ordinance or in case the animal is in such a state or condition that it is unfit to be sold with a view to being worked, it shall be lawful for the pound-keeper in his discretion to have such animal Costs of killing and burying.

shot or otherwise destroyed and the carcase buried or otherwise disposed of. In such case the owner or person having charge of such animal shall, in addition to any other sum to which he may be liable, repay to the pound-keeper the costs, charges and expenses attending such shooting, destruction, burial or disposition.

Regulations.

18. The Inspector-General may, subject to the approval of the Governor, make, and from time to time alter or revoke regulations as to the sum per day to be paid for the feeding of animals in pounds, as to the manner of giving or posting any notice by this Ordinance required to be given or posted, as to the form of such notices, and as to the time and mode of conducting the sales of animals impounded.

**Books kept
by pound-
keepers.**

19. Every pound-keeper shall keep such book or books as the Inspector-General from time to time directs for the purpose of identifying the animals impounded, describing the owners of the same, the persons bringing the same to the pound, specifying the moneys due or received in respect of any animal and the disposal of all moneys received by such pound-keeper, and registering such other matters as the Inspector-General from time to time directs.

**Recovery of
penalties.**

20. All penalties and costs recoverable under this Ordinance may be recovered before any Stipendiary Justice in a summary way, and in the event of the same not being paid forthwith the Stipendiary Justice may order the party liable to pay the same to be imprisoned with or without hard labour for any term not exceeding three months, unless such penalty or costs and the costs of recovering the same and the charges of the commitment and conveying the party to prison (the amount of such costs and charges being stated in the commitment) be sooner paid.

**Ordinance not
to affect rights
of action.**

21. The remedies given by this Ordinance in respect of animals trespassing shall be in addition to, not in derogation of, any remedy by action or suit to which any person may be entitled in respect of any such trespass.

SCHEDULE I.

SEIZURE FEES.

For every horse, mare, gelding, colt, filly, ass, mule, bull,	s. d.
cow, ox, steer, heifer or calf	4 0
For every poundable animal not above mentioned	2 0

SCHEDULE II.

POUND FEES.

For every horse, mare, gelding, colt, filly, ass, mule, bull,	s. d.
cow, ox, steer, heifer or calf	4 0
For every poundable animal not above mentioned	2 0
For notice of impounding, when given to the owner or other person having charge of the animal	2 6

Expenses of feeding as fixed by the Inspector-General
subject to the approval of the Governor.

No. 13.

AN ORDINANCE to regulate the procedure in Criminal Cases.

- Short title.** 1. This Ordinance may be cited as the Criminal Procedure Ordinance.
- Interpretation.** 2. In this Ordinance the term "the Court" means the Supreme Court, and the term "the Registrar" means the Registrar of the Supreme Court.
- Trials in Port-of-Spain.** 3. All persons committed within the Island of Trinidad for trial for treason or felony punishable with death, and all persons committed within the said Island elsewhere than in the Counties of Victoria, St. Patrick, Nariva and Mayaro, for any other offence, shall be tried in the town of Port-of-Spain.
- Trials in San Fernando.** 4. All persons committed within the counties of Victoria, St. Patrick, Nariva and Mayaro for trial for any offence not being treason or felony punishable with death shall be tried in the town of San Fernando.
- Registrar, San Fernando Sessions.** 5. The Chief Clerk in the Registrar's office shall act as Registrar at every session held under this Ordinance in the town of San Fernando, and such clerk shall be in attendance in Court at all times whilst the same shall be sitting.
- Trials in Tobago.** 6. The sittings of the Court in Tobago for the trial of Criminal cases shall be for the trial of all indictments in respect of offences committed in Tobago without exception. Provided, however, that it shall in any case be lawful for a Judge of such Court either before the trial, or on the arraignment of any prisoner, if satisfied that a fair trial cannot be had in Tobago, to order that the trial of any such person shall take place at the Criminal Sessions to be held in Port-of-Spain, or at any special Sessions appointed by virtue of the Judicature Ordinance.
- Change of venue from Tobago.**
- Entry and transfer of cases.** 7. Subject to the provisions of this section, the Attorney-General whenever he considers that the ends of public justice so require may in any case not capital
1. Enter for trial in the town of San Fernando any criminal case which but for this section would be triable in the town of Port-of-Spain.

2. Enter for trial in the town of Port-of-Spain any criminal case which but for this section would be triable in the town of San Fernando.
3. Transfer the trial of any case entered for trial in the town of Port-of-Spain to the town of San Fernando, and
4. Transfer the trial of any case entered for trial in the town of San Fernando to the town of Port-of-Spain.

A transfer under this section shall be effected by delivering to the Registrar ten clear days at least before the day of trial, a warrant for such transfer signed by the Attorney-General; and it shall be the duty of the Registrar six clear days at least before the trial to serve on the accused a copy of such warrant by delivering the same to him personally, or leaving the same at the place appointed for that purpose in the condition of the recognizance entered into by the accused.

8. The Attorney-General or Solicitor-General, or in case of the absence or inability of such Attorney-General or Solicitor-General to act, such other Counsel as may from time to time be appointed by the Governor for the purpose, shall conduct all trials to be had under this Ordinance, and for that purpose, such Solicitor-General or other Counsel shall have all the powers, rights, and privileges which the Attorney-General has in the conducting of criminal prosecutions.

Conduct of trials.

9. In every session of the Court for the trial of criminal cases in the town of Port-of-Spain, two of the Judges shall hold separate courts, one in the Hall of Justice, and the other in the room known as the Practice Court, or some other convenient part of the Court house, and each of the said Judges shall try all offences which shall be brought before him for trial.

Two Courts to be held in Port-of-Spain.

10. It shall be the duty of the Attorney-General to prepare a calendar of the criminal cases he proposes to bring to trial in the Hall of Justice and the Practice Court respectively at any sessions of the Court to be held in Port-of-Spain for the trial of criminal cases, and six clear days before the commencement of such session to submit such calendar to the Judges of the Court for their approval, and such Judges shall collectively have power to revise or

Calendar for Port-of-Spain Sessions.

alter the said calendar so far as the same distributes the business between the two courts as such Judges may agree: Provided that in the event of the said Judges not agreeing between themselves in which of the two courts any case set down for trial shall be heard, then as to such case the calendar shall stand as prepared by the Attorney-General and such case shall be heard and disposed of accordingly: Provided always that nothing herein contained shall be construed to prevent the Attorney-General from bringing cases to trial at any such sessions in due course which shall not have been included in the calendar aforesaid, but in such case he shall in like manner prepare and submit to the Judges, for their approval, a supplemental calendar of such additional cases as to which the like consequences shall ensue in all respects as in the case of the calendar hereinbefore first mentioned.

Attorney-General may discharge prisoner.

11. The Attorney-General and Public Prosecutor (except in the special case hereinafter excepted) shall have the power to order the liberation of any person committed to gaol for further examination or for trial, and to discharge from prosecution any person admitted to bail: for which liberation or discharge, a writing subscribed by the Attorney-General and Public Prosecutor setting forth that he sees no grounds for prosecuting such person shall be a sufficient warrant.

Prosecution in cases of private nature.

12. The Attorney-General and Public Prosecutor shall not be bound to prosecute in any case of assault, battery, or libel, in which he may be of opinion that the interests of public justice do not require his interference; but in all such cases any party injured or complaining shall be admitted to prosecute in the name of the Attorney-General and Public Prosecutor on entering into such recognizance as is hereinafter directed.

Private prosecution.

13. When any party injured or complaining shall desire to prosecute any one for whose liberation from gaol a warrant may have been issued by the Attorney-General and Public Prosecutor, it shall be competent for such party upon entering into such recognizance as is hereinafter directed, to apply to the Court, or in case the same shall not then be in session, to any Judge of the said Court, for a warrant for the further detention in gaol of such person, or in case of his being already liberated, for his re-committal for trial, and such Court or Judge shall thereupon make such order therein as to such Court or Judge shall seem fit.

14. And to the intent that no prosecution at the instance of any private prosecutor may take place until the Attorney-General and Public Prosecutor shall have fully determined whether he will or will not prosecute the offender, it shall not be lawful for the Registrar to receive from any private prosecutor any indictment against any person, unless such indictment shall have thereon endorsed a certificate subscribed by the Attorney-General and Public Prosecutor to the effect that he has seen such indictment and declines to prosecute at the public instance for the offence therein set forth, and unless such private party shall have first entered into a recognizance in the sum of fifty pounds sterling, together with one sufficient surety to be approved of by the Registrar, in the like sum, to prosecute the said indictment to conclusion at the time at which the accused shall be required to appear, and also to pay all costs which such party may be ordered by the Court to pay in respect of such prosecution.

Attorney-General's certificate for private prosecution.

15. The Court may, in any case where a person prosecuted at the instance of a private party is acquitted, adjudge the prosecutor to pay to the party prosecuted the whole or any part of the costs and expenses which may have been occasioned to him by the prosecution.

Costs of private prosecution.

16. Subject to the provisions of this Ordinance, if any person committed for trial is not brought to trial before the close of the second ordinary Criminal Sessions held in Port-of-Spain next after his commitment, he shall be discharged from his imprisonment for the offence for which he was committed for trial if the said offence be in its nature bailable, or if such offence be not bailable he shall then nevertheless be admitted to bail, or discharged on his own recognizance at the discretion of the Court: Provided that nothing in this Ordinance shall abrogate or derogate from the power of the Court to order the postponement of any trial.

When person committed is to be tried.

17. Except as hereinafter provided, no person who shall have been once discharged from gaol by reason of his not having been brought to trial within the term hereinbefore limited shall be liable to be recommitted to prison, either for examination, or for trial for the same offence; and no person who shall have been admitted to bail and not brought to trial within the said term shall be obliged to find further bail, or shall be liable to be committed to gaol either for examination or for trial for the same offence in respect of which he was

When new prosecution may be had.

formerly admitted to bail; but no such discharge from imprisonment, nor the expiration of the time mentioned in the recognizance, shall be any bar to prevent any person from being brought to trial before the said Court for any offence for which he was formerly committed to prison, or admitted to bail, or discharged: *Nolle prosequi.* Provided always, that in case any person charged with any offence shall have been, or hereafter shall be committed to gaol or admitted to bail, in respect of such offence, it shall be lawful for the Attorney-General and Public Prosecutor at any time before the commencement of the second session of the said Court, next after the expiration of fifteen days after such prisoner shall have been so committed for trial, or admitted to bail, to file in the Court the preliminary examinations upon which such prisoner was so committed for trial, or admitted to bail, and to put in a declaration in writing, signed by the Attorney-General and Public Prosecutor, to the effect that considering the evidence adduced against such prisoner in the preliminary examinations to be insufficient, he the said Attorney-General and Public Prosecutor will not upon such evidence further prosecute such person in respect of such offence, a copy of which said declaration, certified by the Registrar, shall be served by the Marshal by delivering the same to the person so committed for trial, or admitted to bail, or leaving the same at his usual place of abode, or at the place specified in the recognizance for the receiving of any indictment against such person in respect of such offence; and in such case the person so committed for trial, if in custody, shall be forthwith discharged, or if admitted to bail, the recognizance of bail shall be discharged or cancelled; and in case any further or better evidence shall at any time thereafter be found to prove that such person was guilty of the said offence in respect whereof he was so committed for trial, or admitted to bail, and discharged as aforesaid, and such person be again charged with such offence, and such further or better evidence shall be adduced against him, it shall be lawful for the Magistrate, before whom such person may be brought to be examined on such charge, to commit him to gaol for examination, or further examination, or for trial, or to hold him to bail for such offence in the same manner to all intents and purposes as if he had never before been charged with such offence, or in respect thereof been committed for trial, or admitted to bail, or discharged, as hereinbefore mentioned, anything herein contained to the contrary notwithstanding.

18. Every criminal charge for any offence to be prosecuted before the Court shall be called "the Indictment" and shall be prosecuted in the name of the Attorney-General and Public Prosecutor and shall be according to the form in Schedule A and shall in the manner of setting forth the offence be as nearly as may be in the form of indictment for a similar offence before any Court in England; but in any indictment it shall be sufficient to allege that the offence charged was committed contrary to the laws in force in this Colony.

Indictments to be in name of Attorney-General.

19. All Indictments and other pleadings on behalf of the Crown in cases to be tried under this Ordinance shall be signed by the Attorney-General.

Indictments to be signed by Attorney-General.

20. Every Indictment shall be filed in Court.

Indictments to be filed.

Any person committed for trial may by notice addressed to the Registrar, and left at the Registrar's office four clear days at least before the trial of any indictment filed against him, require that a copy of such indictment be served upon him at a place specified in such notice being within three miles of the Court House in Port-of-Spain, and thereupon it shall be the duty of the Registrar to serve such copy by delivering the same at the place specified in the notice, either to the prisoner personally, or if the prisoner be not there, to any person willing to accept such service on behalf of the prisoner, or if no such person can be found, by leaving the same between the hours of nine o'clock in the morning and four o'clock in the afternoon at the place aforesaid.

Service of copy of indictment.

The notice may be in the form in Schedule B.

When the person desirous of giving such notice is a prisoner in the Royal Gaol, it shall be the duty of the Keeper of the Royal Gaol to assist him to prepare such notice, and to cause the same to be left at the Registrar's office as soon as practicable.

With reference to the service of any copy of an indictment, the Marshal shall be aiding and assisting to the Registrar.

If upon the arraignment of any accused person it appears to the Court that notice according to this Ordinance requiring the service of a copy of the indictment was given, and that such copy was not served according to this Ordi-

nance in pursuance of such notice, such accused person shall on application by him or on his behalf, be entitled as of right to have the trial of the indictment postponed to the next Criminal Sessions held in the town in which he is arraigned.

Accused may
require post-
ponement.

21. Any accused person on arraignment may if committed for trial less than six clear days before the day of his arraignment, require that the trial of the indictment filed against him be postponed to the next Criminal Sessions held in the town in which he is arraigned, and the Court shall make order accordingly.

Counsel and
Solicitor for
accused.

22. The accused shall in all cases be allowed to be heard and defended by Counsel upon his trial, or at any stage of the proceedings before the Court; and in all cases of treason or capital felony it shall be the duty of the Registrar at the time of delivering to the accused a copy of the indictment, to call upon him to select his Counsel if he have the means of employing one, and in default thereof the Chief Justice shall assign Counsel and a Solicitor to the accused, for which purpose the Registrar shall keep a list of the Barristers and Solicitors so that they may be appointed to that duty in rotation; and such fees shall be allowed to such Barristers and Solicitors as are specified in Schedule C.

Indictment
not to be
abated for
misnomer, &c.

23. No indictment shall be abated by reason of any dilatory plea of misnomer, or of want of addition, or wrong addition of the party offering such plea, but in such case the Court if satisfied by affidavit or otherwise of the truth of such plea, shall cause the indictment to be amended according to the truth, and shall call on such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

Variance in
indictments.

24. The Court may cause the indictment or charge for any offence whatever, whether such offence be a felony or a misdemeanour, when any variance or variances shall appear between any matter in writing or in print produced in evidence and the recital or setting forth thereof in the indictment or charge whereon the trial is pending, to be forthwith amended in such particular or particulars by some officer of the Court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance or variances had occurred.

25. Whenever on the trial of any indictment for any felony or misdemeanour there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof in the name of any county, division, town, parish or place mentioned or described in any such indictment or in the name or description of any person or persons or body politic or corporate therein stated or alleged to be the owner or owners of any property real or personal which shall form the subject of any offence charged therein or in the name or description of any person or persons, body politic or corporate therein stated or alleged to be injured or damaged or intended to be injured or damaged by the commission of such offence, or in the christian name or surname or both christian name and surname or other description whatsoever of any person or persons whomsoever therein named or described, or in the name or description of any matter or thing whatsoever therein named or described or in the ownership of any property named or described therein, the Court before which the trial shall be had, if it shall consider such variance not material to the merits of the case and that the defendant cannot be prejudiced thereby in his defence on such merits, may order such indictment to be amended according to the proof by some officer of the Court or other person, both in that part of the indictment where such variance occurs and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury as such Court shall think reasonable : and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences both with respect to the liability of witnesses to be indicted for perjury and otherwise as if no such variance had occurred : Provided that in all such cases where the trial shall be so postponed as aforesaid the Court may respite the recognizances of the prosecutor and witnesses and of the defendant and his surety or sureties if any accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose in such and the same manner as if they were originally bound by their recognizances to appear and prosecute or give evidence or be tried

Variance in
indictments
for felony or
misdemeanour.

at the time and place to which such trial shall have been so postponed : Provided also, that where any such trial shall be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

Means by which death was inflicted need not be specified.

26. In any indictment for murder or manslaughter, it shall not be necessary to set forth the manner in which or the means by which the death of the deceased was caused, but it shall be sufficient in every indictment for murder to charge that the defendant did feloniously, wilfully and of his malice aforethought kill and murder the deceased and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased.

Forms of indictment in certain cases.

27. In any indictment for forging, uttering, stealing, embezzling, destroying or concealing or for obtaining by false pretences any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof without setting out any copy or *facsimile* thereof or otherwise describing the same or the value thereof.

For engraving plates.

28. In any indictment for engraving or making the whole or any part of any instrument, matter or thing whatsoever or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument, matter or thing whatsoever shall have been engraved or made or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same may be usually known without setting out any copy or *facsimile* of the whole or any part of such instrument, matter or thing.

In other cases.

29. In all other cases wherever it shall be necessary to make any averment in any indictment as to any instrument whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof without setting out any copy or *facsimile* of the whole or any part thereof.

Intent to injure or defraud.

30. It shall be sufficient in any indictment for any offence, where it is necessary to allege an intent to injure or defraud,

to allege that the party accused did the act with intent to injure or defraud (as the case may be), without alleging an intent to injure or defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to injure or defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with intent to injure or defraud (as the case may be).

31. Whenever it shall be requisite in any indictment to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, co-proprietors or co-tenants, or otherwise howsoever have a joint or common right to or interest in such property, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named and another or others, as the case may be: and whenever in any indictment it shall be necessary to mention for any purpose whatsoever any such partners, co-proprietors, co-tenants, or other persons having such joint or common right or interest in any property, it shall be sufficient to describe them in the manner aforesaid, and this provision shall be construed to extend to all joint stock companies and trustees.

32. Whenever in any indictment it shall be requisite to mention or describe any aqueduct, canal, bridge, gaol, hospital, infirmary, asylum, school-house, workhouse, poor-house, or other building whatsoever, erected or maintained in whole or in part at the expense of the inhabitants of this Colony or any district, county or ward thereof, or any goods or chattels whatsoever provided for the use of any such building, or of any person in, belonging to or attached to the same, or at the expense of the inhabitants of this Colony or any district, county or ward thereof, to be used for making, altering, or repairing any bridge or highway, or any such building as aforesaid, or to be used in or with any such building, it shall be sufficient to state any such property, real or personal, to belong to the inhabitants of this Colony and it shall not be necessary to specify the name of any such inhabitants; and in any indictment for any felony or misdemeanour, committed on or with respect to any materials, tools, or other implements provided for making, altering or repairing any street or highway, it shall be sufficient to state that any such thing is the property of the Port-of-Spain Town Commissioners,

the Mayor and Burgesses of the Borough, the Director of Public Works, or the Chairman of the Local Road Board, as the case may be, and it shall not be necessary to specify the name or names of any such Commissioners, Mayor and Burgesses, Director of Public Works or Chairman.

Indictments
for offences
committed
with respect
to churches,
&c.

33. In any indictment for any felony or misdemeanour committed on or with respect to any building set apart for the purposes of religious worship, or any vessel, ornament, vestment, book, or other chattel of or in any church or chapel or other such building so set apart for the purposes of religious worship, it shall be sufficient to state that any such building or chattel is the property of the clergyman or minister officiating at such church, chapel or other building, or of the wardens of such church or chapel, or of the person in whose custody such chattel may have been at the time of the commission of such felony or misdemeanour; and it shall not be necessary to specify the name or names of any such clergyman, minister, or wardens.

On indictment
for felony or
misdemeanour
verdict of
guilty of an
attempt to
commit the
same may be
returned.

34. If on the trial of any person charged with any felony or misdemeanour it shall appear to the jury upon the evidence that the defendant did not complete the offence charged but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanour charged but is guilty of an attempt to commit the same and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanour charged in the said indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanour for which he was so tried.

On indictment
for robbery
the jury may
convict of an
assault with
intent to
rob.

35. If upon the trial of any person upon any indictment for robbery it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he committed an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent

to rob, and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

36. If upon the trial of any person for any misdemeanour it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanour, and no person tried for such misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts unless the Court before which such trial may be had shall think fit in its discretion to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanour.

Person tried for misdemeanour not to be acquitted if felony proved unless Court so direct.

37. If upon the trial of any person indicted for embezzlement as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant or person employed for the purpose or in the capacity of a clerk or servant as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny, and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, and no person so tried for embezzlement or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

Person indicted for embezzlement as a clerk, &c., not to be acquitted if larceny proved and vice versa.

38. If upon the trial of two or more persons indicted for jointly receiving any property it shall be proved that one or more of such persons separately received any part of such property it shall be lawful for the jury to convict upon such

Indictments for jointly receiving.

indictment such of the said persons as shall be proved to have received any part of such property.

Accessories
before the fact.

39. If any person shall counsel, procure, or command any other person to commit any felony, whether the same be a felony by the Common Law of England or by virtue of any Act of the Imperial Parliament or Ordinance made or to be made, and in force or to be in force in this Colony, the person so counselling, procuring, or commanding shall be deemed guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony together with the principal felon, or after the conviction of the principal felon or may be indicted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony if convicted as an accessory may be punished.

Accessories
may be prosecuted
apart
from principal
offender.

40. If any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory either before or after the fact, notwithstanding such principal felon shall die or be pardoned or otherwise delivered before receiving judgment, and every such accessory shall suffer the same punishment if he be in anywise convicted as he should have suffered if judgment had passed upon the principal felon.

Accessories
and receivers
may be indicted
in
absence of
principal.

41. Any number of accessories or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Three larcenies
from same
person in same
indictment.

42. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing not exceeding three, which may have been committed by him against the same person within the space of six calendar months from the first to the last of such acts, and to proceed thereon for all or any of them.

When prosecutor
required
to elect in
cases of
larceny.

43. If upon the trial of any indictment for larceny it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed unless it shall appear that there were more than three takings, or that more than the space of six calendar months elapsed between

the first and the last of such takings, and in either of such last mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six calendar months from the first to the last of such takings.

44. In every indictment in which it shall be necessary to make any averment as to any money or any note of any bank it shall be sufficient to describe such money or bank note simply as money without specifying any particular coin or bank note, and such allegation, so far as regards the description of the property shall be sustained by proof of any amount of coin, or of any bank note, although the particular species of coin, of which such amount was composed, or the particular nature of the bank note shall not be proved, and in cases of embezzlement and obtaining money or bank notes by false pretences by proof that the offender embezzled or obtained any piece of coin or any bank note, or any portion of the value thereof, although such piece of coin or bank note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

Description of
coin and bank
notes.

45. It shall and may be lawful for the Judges, or any Judge of the Court, or for any Stipendiary Justice of the Peace in case it shall appear to him or them that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer, or other proceeding, made or taken before him or them, to direct such person to be prosecuted for such perjury in case there shall appear to him or them a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next session of the Court for the trial of Criminal cases, unless such person shall enter into a recognizance with one or more sufficient surety or sureties, conditioned for the appearance of such persons at such next session of the Court for the trial of Criminal cases and that he will then surrender and take his trial, and not depart the Court without leave, and to require any person he or they may think fit to enter into a recognizance, conditioned to give evidence against such person so directed to be prosecuted as aforesaid.

Commitment
for perjury.

Vide No. 287.

46. In every indictment for perjury or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or

Indictment for
perjury.

corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, notice, certificate, or other writing it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, notice, certificate, or other writing, was taken, made, signed, or subscribed without setting forth the information, indictment, declaration, or any part of any proceeding either at law or in equity, and without setting forth the commission or authority of the court or person before whom such offence was committed.

Form of indictment for subornation of perjury and like offences.

47. In every indictment for the subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, notice, certificate, or other writing, it shall be sufficient wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, wilfully and corruptly did cause and procure the said person the said offence in manner and form aforesaid to do and commit, and wherever such perjury, or other offence aforesaid, shall not have been actually committed it shall be sufficient to set forth the substance of the offence charged upon the defendant without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Evidence on trials for perjury.

48. A certificate containing the substance and effect only (omitting the formal part) of the indictment and trial for any felony or misdemeanour, purporting to be signed by the Registrar or other officer having the custody of the records of the Court where such indictment was tried shall upon the trial of any indictment for perjury, or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanour without proof of the signature or official character of the person appearing to have signed the same.

Defects in indictment.

49. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary

to be proved nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for that any person mentioned in the indictment is designated by a name of office [or other descriptive appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the filing of the indictment or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil in any case where the value or price or the amount of damage, injury or spoil is not of the essence of the offence.

50. Every objection to any indictment for any formal defect apparent on the face thereof shall be taken by demurrer or motion to quash such indictment before the jury shall be sworn and not afterwards, and every Court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Formal objections to indictment.

Court may amend any formal defect.

51. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment; Provided always, that if the Court upon the application of the person so indicted or otherwise shall be of opinion that he ought to be allowed a further time either to prepare for his defence or otherwise such Court may adjourn the trial of such person to the next subsequent session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session without entering into any fresh recognizance for that purpose.

Provisions as to traversing indictments.

52. In any plea of *autrefois* convict or *autrefois* acquit it shall be sufficient for any defendant to state that he has

Plea of *autrefois* convict or *autrefois* acquit.

been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment.

Issues of law. **53.** Whenever any issue of law shall be joined between the Crown and any person indicted for any treason, felony, or misdemeanour such issue shall be tried and determined by the Court according to the law of England.

Issues of fact to be tried by Jury. **54.** In all criminal trials which shall be had before the Court for the trial of criminal prosecutions, where any plea or issue of fact which, by the law and practice of England would be triable by the country, shall be pleaded or tendered by or on the behalf of any person accused of or indicted for any offence before the said Court, such plea or issue shall on the order of the Court be inquired of by a jury.

Issues of fact. **55.** Whenever any issue which by the law of England would be triable by the country shall be joined between the Crown and any person indicted for any treason, felony or misdemeanour upon any other plea than the plea of not guilty, the Court shall order a jury for the trial of such issue; and such issue shall be tried and determined, and the judgment of the Court shall be given thereupon, as nearly as may be according to the practice observed in the Courts in England.

Arraignment of prisoner. **56.** Every person accused shall be arraigned in such manner and form as is usual in criminal trials in England; and if any person being arraigned shall stand mute of malice, or will not answer directly to the indictment, in every such case it shall be lawful for the Court, if it shall see fit, to order the Registrar to enter a plea of not guilty on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

Procedure on plea or demurrer by accused. **57.** The accused on being arraigned on any indictment may plead the general issue *ore tenus* or he may in writing demur or plead any matter of law or fact which he would be permitted to plead according to the law of England, upon which demurrer or plea in writing the Registrar on behalf of the Crown may instantanter join in demurrer, or demur, or reply.

Addresses of Counsel. **58.** If any prisoner or prisoners, defendant or defendants shall be defended by Counsel, but not otherwise, it shall be the duty of the presiding Judge at the close of the case for the prosecution to ask the Counsel for each prisoner or

defendant so defended by Counsel whether he or they intend to adduce evidence; and in the event of none of them thereupon announcing his intention to adduce evidence, the Counsel for the prosecution shall be allowed to address the Jury a second time in support of his case, for the purpose of summing up the evidence against such prisoner or prisoners, or defendant or defendants; and upon every trial for felony or misdemeanour, whether the prisoners or defendants or any of them shall be defended by Counsel or not, each and every such prisoner or defendant, or his or their Counsel respectively, shall be allowed, if he or they shall think fit, to open his or their case or cases respectively; and after the conclusion of such opening or of all such openings if more than one, such prisoner or prisoners, or defendant or defendants or their Counsel shall be entitled to examine such witnesses as he or they may think fit, and when all the evidence is concluded to sum up the evidence respectively; and the right of reply and practice and course of proceedings, save as hereby altered, shall be as at present.

59. It shall not be necessary for the conviction of any person charged with any treason, felony, or misdemeanour, that such treason, felony, or misdemeanour, be proved by the direct or positive testimony of any witness, but the evidence which shall have been given on the trial (although the same shall be circumstantial only) shall be left by the Court to the consideration of the jury, and the jury may bring in a verdict of guilty upon such evidence, if they shall be satisfied with the same as sufficient to establish the guilt of the person charged.

Circumstantial evidence.

60. All questions which shall arise touching the form, sufficiency, or effect of any indictment or subsequent pleading, or touching the admissibility of any defence, or of any witness called to give evidence, or of any evidence, or of any question put to any witness, or of any document, paper, matter or thing tendered in evidence, or upon any matter or cause alleged for setting aside any verdict or staying or reversing any judgment shall be decided by the Court as nearly as may be according to the law of England in like case.

Admissibility of evidence.

61. In all examinations touching any offence, and on all trials for any offence, the solemn affirmation or declaration of any person who, by the law of England, would be permitted to make such solemn affirmation or declaration instead of taking an oath in the usual form, shall be received in lieu of

Affirmations to be admitted in place of oaths.

the oath of such person, and such solemn affirmation or declaration shall be of the same force and effect to all intents and purposes as if such person had taken an oath in the usual manner.

Persons
affirming
falsely, guilty
of perjury.

62. If any person making such solemn affirmation or declaration, shall wilfully, falsely and corruptly affirm or declare any matter or thing which, if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such person so offending shall incur the same penalties and forfeitures as are or may be enacted or provided against persons convicted of wilful and corrupt perjury.

Consecutive
periods of
imprisonment.

63. Whenever sentence shall be passed for felony on any person already under sentence of imprisonment for another offence, it shall be lawful for the Court to award imprisonment with or without hard labour, for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced.

Previous
convictions.

64. If any person is convicted of felony, not punishable with death, committed after a previous conviction for felony, such person shall, on subsequent conviction, be liable to be imprisoned, with or without hard labour, for life or for any term of years, and if a male, to undergo corporal punishment.

In any indictment for felony committed after a previous conviction or convictions for felony it shall be sufficient after charging the subsequent offence to state that the offender was at a certain time and place or at certain times and places convicted of felony without otherwise describing the previous felony; and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows: the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he plead not guilty, or if the Court order a plea of not guilty to be entered on his behalf, the Jury shall be charged, in the first instance, to enquire concerning such subsequent offence only; and if they find him guilty, or if on arraignment he plead guilty, he shall then, and not before, be asked whether he has been previously convicted as alleged in the indictment, and if he answer that he has been so previously convicted the Court may proceed to sentence him accord-

ingly, but if he deny that he has been so previously convicted or stand mute of malice, or will not answer directly to such question, the Jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the Jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last-mentioned inquiry: Provided that if upon the trial of any person for any such subsequent offence such person gives evidence of his good character, it shall be lawful for the counsel for the prosecution, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty is returned, and the Jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

65. A previous conviction may be proved in any legal proceeding whatever by producing a record or extract of such conviction, and by giving proof of the identity of the person against whom the conviction is sought to be proved with the person appearing in the record or extract of conviction to have been convicted.

*Proof of
previous con-
viction.*

A record or extract of a conviction where the conviction was on indictment shall consist of a certificate containing the substance and effect only (omitting the formal part of the indictment and conviction), and purporting to be signed by the Registrar or other Officer having the custody of the records of the Court by which such conviction was made, and in the case of a summary conviction shall consist of a copy of such conviction purporting to be signed by any Justice of the Peace having jurisdiction over the offence in respect of which such conviction was made or by the Clerk of the Peace or other proper Officer of the Court by which such conviction was made.

A record or extract of any conviction made in pursuance of this section shall be admissible in evidence without proof of the signature or official character of the person appearing to have signed the same.

The mode of proving a previous conviction authorised by this section shall be in addition to and not in exclusion of any other authorised mode of proving such conviction.

66. It shall be lawful for the Court when pronouncing judgment upon the conviction of any person for any offence,

*Persons
convicted may
be condemned
in costs.*

in addition to such sentence as may otherwise by law be passed, to condemn such person to the payment of the whole or any part of the costs or expenses incurred in or about the prosecution and conviction for the offence of which he is convicted, if to such Court it seems fit so to do; and the payment of such costs and expenses, or any part thereof, may be ordered by the Court to be made out of any moneys taken from such person on his apprehension, or may be enforced at the instance of the Public Prosecutor, or of any person liable to pay or who may have paid such costs and expenses, in such and the same manner (subject to the provisions of this Ordinance) as the payment of any costs ordered to be paid by the judgment or order of the Court in civil cases may be enforced: Provided that in the meantime and until the recovery of such costs and expenses from the person so convicted as aforesaid, or from his estate, the same shall be paid and provided for in the same manner as if this section were not in force; and any money which may be recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses may have been paid or defrayed.

Compensation
to persons
defrauded or
injured.

67. It shall be lawful for the Court if it thinks fit, upon the application of any person aggrieved, and immediately after the conviction of any person for any offence, to award any sum of money, not exceeding one hundred pounds, by way of satisfaction or compensation for any loss of property suffered by the applicant through or by means of the said offence, and the amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted, and the order for payment of such amount may be enforced in such and the same manner as in the case of any costs ordered by the Court to be paid under the last preceding section of this Ordinance.

Verdict and
judgment after
amendments.

68. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Ordinance shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

Record after
amendments.

69. If it shall become necessary at any time for any purpose whatsoever to draw up a formal record in any case

where any amendment shall have been made under the provisions of this Ordinance, such record shall be drawn up in the form in which the indictment was after such amendment was made without taking any notice of the fact of such amendment having been made.

70. Whenever any person shall be convicted by the verdict of the jury, or on his own confession, the Registrar, before the Court shall pass judgment, shall inquire and ask if such offender has anything to offer why judgment should not be awarded against him, and in case such offender shall not allege any matter or thing sufficient in law to arrest such judgment, the Court shall immediately after conviction, or at any time during the same session, pronounce judgment, and sentence the prisoner to undergo such punishment as the Court shall see fit: Provided that where any defendant shall be brought up for judgment on any indictment for misdemeanour, affidavits may be read and counsel may be heard in support of the prosecution, and on behalf of the defendant; and it shall be lawful for the Court, if it shall see fit, to postpone its judgment, and to order the defendant to be discharged on entering into security by recognizance to appear and receive judgment whenever he shall be ordered to be brought up for that purpose: provided also, that nothing herein contained shall extend or be construed to prevent the Court from reserving the consideration of any question of law arising upon any criminal trial.

Procedure
after
conviction.

71. Where any person tried at any Session held under this Ordinance in the town of San Fernando shall charge any matter in arrest of judgment, the Judge holding such Session may, if he shall see fit, reserve such matter for the consideration of the full Court at the Session to be next held in the town of Port-of-Spain, and thereupon may make order for the detention and imprisonment of such person in the meantime.

Arrest of
Judgment,
San Fernando.

72. Every judgment on any person convicted of treason or felony, shall operate by way of attainder of such person in the same manner as the like judgment would operate in England; but no attainder shall corrupt the blood or forfeit the lands and tenements, and no conviction shall forfeit the goods or chattels of any person so attainted or convicted.

Judgment to
operate by
way of
attainder, but
not to corrupt
blood or cause
forfeiture.

73. Where a conditional pardon shall be granted to any offender convicted of any treason or felony punishable with death or otherwise, the discharge of such offender out of

Conditional
pardon.

custody, in the case of the performance of the condition thereof, shall have the effect of a pardon under the Great Seal for such offender as to the treason or felony for which such pardon shall be so granted: Provided that no discharge, in consequence of the performance of the condition of such pardon, shall prevent or mitigate the punishment to which such offender might otherwise be lawfully sentenced on a subsequent conviction for any felony committed after the granting of such pardon.

**Commutation
of punishment.**

74. When any person shall be convicted of any crime punishable by death, if His Majesty shall be pleased to extend mercy to any such offender upon condition of imprisonment, or of imprisonment with hard labour, and such intention of mercy shall be signified by the Governor to the said Court during any session thereof, such Court shall allow to such offender the benefit of a conditional pardon, and make an order for imprisonment, with or without hard labour, as the case may be, of such offender; and in case such intention of mercy shall be so signified to the Chief Justice of the Colony at any time when such Court is not in session, such Chief Justice shall allow to such offender the benefit of a conditional pardon, and make an order for the imprisonment of such offender, in the same manner as if such intention of mercy had been signified to the Court during the session at which such offender was convicted, and such allowance and order shall be considered as an allowance and order made by the Court, and shall be entered on the records of the Court by the Registrar, and shall be as effectual to all intents and purposes as if such allowance had been made by the Court during the continuance of the same session, and every such order shall subject the offender to be so imprisoned.

**Punishment
for felonies
not otherwise
provided for.**

75. Every person convicted of any felony for which no punishment may be prescribed by any Statute of the Imperial Parliament, Order in Council, or Ordinance, specially relating to such felony, and in force in this Colony at the time of such conviction, shall be liable to be imprisoned with or without hard labour, for any term not exceeding three years.

**Marshal to
attend all
sittings of
Court.**

76. It shall be the duty of the Marshal, by himself or some sufficient deputy or assistant, to be in attendance in Court at all times whilst the same shall be sitting, and to

bring the prisoner before the Court, and during the continuance of the trial to have him under his charge and custody, and from time to time to remand him to prison by permission or order of the Court during the progress of the trial or any adjournment thereof.

77. Every warrant for the execution of any prisoner under sentence of death shall be under the seal of the Colony and the hand of the Governor, and shall be directed to the Marshal and shall be carried into execution by such Marshal or his assistant at such time and place as shall be mentioned in such warrant; and such warrant shall be in the form in Schedule D and there shall issue in every such case a warrant for the delivery of such prisoner by the Keeper of the Royal Gaol to the said Marshal for the purpose of such execution; and such last mentioned warrant shall be under the seal of the Colony and the hand of the Governor, and shall be in the form in Schedule E: Provided that it shall be lawful for the Governor, by warrant under his hand and the seal of the Colony directed to the Marshal, to respite any such execution; and by the same or any subsequent warrant, so sealed and signed, to order such execution to be carried into effect at such time and place as shall be appointed and specified in such warrant, in which case the execution shall be done at such time and place as shall be so appointed. Warrant of Execution.

78. All writs of subpoena to witnesses shall issue in the name of the King and be tested in the name of the Chief Justice for the time being. Writs of Subpoena.

79. The Registrar on being furnished with the names and places of abode of any witnesses on behalf of the prosecution or defence whose attendance is required to be secured by subpoena shall prepare and deliver to the Marshal for service a writ or writs of subpoena directed to such witnesses, together with as many copies thereof as there may be witnesses named in such writ or writs; and when application shall be made to postpone any trial by reason of the absence of any witness stated to be material it shall be taken as *prima facie* evidence, liable nevertheless to be rebutted, that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such witness if it shall appear that no subpoena to such witness was sued out four clear days at the least before the first day of the session. Service of Subpoena.

Subpoena to be served by Marshal, and his returns *prima facie* evidence.

80. The Marshal shall with all diligence, by himself or his assistant, serve a copy of such writ of subpoena upon every witness named in such writ, and note every such service, with the time thereof, upon the original writ of subpoena, and shall forthwith return the original writ into the office of the Registrar with a certificate thereon endorsed and subscribed of the service or non-service thereof as the circumstances of the case may require; and in all cases the return of the Marshal duly certified as aforesaid shall be received and taken as sufficient evidence *prima facie* of the facts stated in such return.

Court may fine witness neglecting to attend.

81. If any witness having been duly subpoenaed shall neglect or refuse to attend, not being prevented by sickness or other disability of which sickness or disability sufficient proof must be afforded to the satisfaction of the Court, or attending shall refuse to give evidence, such witness shall be subject to a fine, at the discretion of the Court, in a sum not exceeding twenty pounds sterling, and shall be brought up in custody of the Marshal at the expense of such witness.

Expenses of witnesses for the prosecution.

82. Where any person appears before the Court on recognizance or subpoena to give evidence against any person accused of felony or misdemeanour, the Court may order payment of the costs and expenses of such witness together with a compensation for his trouble and loss of time.

Expenses of witnesses for accused.

83. The Court is hereby authorised, in its discretion, at the request of any person who appears before such Court on recognizance to give evidence on behalf of an accused person, to order payment to such witness of such sum of money as to the Court seems reasonable and sufficient to compensate him for the expenses, trouble and loss of time which he incurred or sustained in attending before the examining Magistrate and the Court.

Ascertainment of witness's expenses.

84. The amount of the expenses and compensation payable to any witness attending before the Court shall be ascertained by the Registrar and certified under his hand and on being allowed by a Judge of the Court under his hand shall be paid to the witness by the Receiver-General.

The amount of the expenses and compensation payable to any witness attending before a Magistrate shall be ascertained by the certificate of such Magistrate granted before the attendance of the witness in the Court, and on being

allowed by a Judge of the Court under his hand, shall be paid to the witness by the Receiver-General.

85. In every case where any person bound by recognizance for his appearance, or for whose appearance any other person shall be so bound, or who shall have been duly subpœnaed as a witness in any case of felony or misdemeanour, shall fail to appear, the Registrar shall, and he is hereby required to prepare a return in writing, specifying the name of every person so making default, and the nature of the offence in respect of which every such person, or his surety, was so bound or subpœnaed, together with the residence, trade, profession, or calling of every such person or surety, and shall in such list distinguish the principal from the sureties, and shall state the cause, if known, why each such person has not appeared; and the Registrar shall, on the last day of such session of the said Court, lay such return before the Court, and the Court shall examine such return, and on the application of the Attorney-General or any party on whose behalf any such witness was subpœnaed, make such order touching the enforcing any such recognizance, or fining any such witness, as shall appear to the Court to be just; and the Registrar shall thereupon copy on a roll all fines, forfeitures, and sums of money to be paid in lieu or satisfaction of them, or any of them, imposed by the Court or forfeited at such session, and shall, within three days after the last day of such session, send a copy of such roll, with a writ, according to the form in Schedule F to the Marshal, and such writ shall be the authority to such Marshal for proceeding to the immediate levying and recovering of such fines, forfeitures, or sums of money to be paid in lieu or satisfaction of them, or any of them, on the goods and chattels of such several persons, or for taking into custody the bodies of such persons, in case sufficient goods and chattels shall not be found whereon levy can be made for recovery thereof; and every person so taken shall be lodged in the Royal Gaol until the next sitting of the said Court, there to abide the judgment of the said Court, unless in the meantime such fine, forfeiture, or sum of money shall be paid.

Process to enforce payment of fines or forfeited recognizances.

86. Depositions taken according to law may by leave of the Court be used at the trial of any indictment not only in cases in which they might be so used according to the law of England but also where the deponent is absent from the Colony or where from any cause whatever his attendance cannot be procured,

Power to use depositions at the trial.

- Gaol delivery.** 87. The Court at the close of every session shall discharge all such prisoners as by law shall be entitled to be discharged; and the Keeper of the Royal Gaol shall on the last day of each session of the said Court deliver or cause to be delivered to the Court, under a penalty of ten pounds sterling in case of his refusal or neglect, a list of all persons confined within such gaol, together with the date of commitment and the cause of imprisonment in each case and the name of the committing authority.
- Bail.** 88. The Court, or any Judge thereof if the same shall not then be in session, shall have such and the same power to bail in all cases whatsoever, as the Court of King's Bench at Westminster, or any Judge thereof in vacation, has by the law of England.
- Solicitor-General to act for Attorney-General.** 89. In case of the absence or inability to act of the Attorney-General the duties of his office may, for all the purposes of this Ordinance, be discharged by the Solicitor-General for the time being.
- Solicitor-General's fees.** 90. There shall be paid to the Solicitor-General or other counsel who may be appointed for the purpose of conducting the trials held at the Port-of-Spain Criminal Sessions the sum of thirty guineas for every session at which he shall attend and conduct such trials.
- Rules and regulations.** 91. It shall be lawful for the Judges of the Court from time to time to make such rules and regulations as they shall see fit for the better carrying into effect the objects of this Ordinance.
- Place of imprisonment.** 92. If any person shall be convicted of any offence for which imprisonment may be awarded it shall be lawful for the Court to sentence the offender to be imprisoned or to be imprisoned and kept to hard labour in the Royal Gaol, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment or imprisonment with hard labour, not exceeding one month at any one time and not exceeding three months in any one year as to the Court in its discretion may seem meet.
- Solitary confinement.**

SCHEDULE A.

TRINIDAD AND TOBAGO.

IN THE SUPREME COURT OF TRINIDAD AND TOBAGO.

The Honourable A. B., Attorney-General and Public Prosecutor in and for the said Colony, who prosecutes for our Sovereign Lord the King, comes into Court here in his own proper person, and gives this honourable Court to understand, That (set forth the offence according to the circumstances in the same manner and form as in an indictment in England, and conclude) "contrary to the laws in force in this Colony and against the Peace of our said Lord the King, his Crown and dignity."—(And if there are other counts, commence each count as follows—"And the said Attorney-General and Public Prosecutor further gives this honourable Court to understand"—and conclude each count in the same manner as the first count.)

SCHEDULE B.

To the Registrar of the Supreme Court.

TAKE NOTICE that I, A.B., do hereby require that a copy of any indictment filed against me be served upon me according to "The Criminal Procedure Ordinance," at (*specify place of service.*)

Signature.

SCHEDULE C.

Fees to be allowed to the Counsel and Solicitor assigned to any Prisoner under this Ordinance.

To the Counsel	...	...	...	...	£7	7
„ Solicitor	...	...	...	...	2	2

SCHEDULE D.

TRINIDAD AND TOBAGO.

EDWARD by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, &c., &c., &c.

To the Marshal of our Colony of Trinidad and Tobago—

GREETING :

WHEREAS (A.B.), late of _____ has been indicted for felony and murder by him done and committed, and the said (A.B.) having been thereupon arraigned before the Supreme Court of

this Colony at its Session held on the _____ day of _____
 in the year of our Lord one thousand _____
 ; and having upon such arraignment pleaded NOT GUILTY
(or Guilty, as the case may be), the said (A.B.) has before the said Court
 in its aforesaid Session been tried and in due form of law convicted
 thereof : And whereas judgment has been given by the said Court, that
 the said (A.B.) be hanged by the neck until he be dead, the execution of
 which judgment yet remains to be done, I
 Governor of this Colony of Trinidad and Tobago, do by these presents
 require and strictly command you that upon _____ the
 day of _____ in the year of our Lord one thousand _____
 between the hours of six in the forenoon and twelve at noon of the same
 day, him the said (A.B.) at the Royal Gaol in this Colony to you to be deli-
 vered, as by another writ to the Keeper of the said Royal Gaol is commanded,
 into your custody. you then and there receive, and him in your custody so
 being you forthwith convey to the usual place of execution and that you
 do then and there cause execution to be done upon the said (A.B.) in your
 custody so being in all things according to the said judgment ; And this
 you are by no means to omit at your peril.

SCHEDULE E.

TRINIDAD AND TOBAGO.

EDWARD by the Grace of God of the United Kingdom
 of Great Britain and Ireland, King, Defender of
 the Faith, &c., &c., &c.

To the Keeper of the Royal Gaol.

GREETING :

Whereas (A.B.) late of _____ in the
 said Colony has been indicted for felony
 and murder by him done and committed ; and the said (A.B.) having been
 thereupon arraigned before the Supreme Court of this Colony at its
 Session held on the _____ day of _____ in the year of
 our Lord one thousand _____ and having upon such
 arraignment pleaded NOT GUILTY *(or Guilty, as the case may be)*, the said
 (A.B.) has before the said Court in its aforesaid Session been tried, and in
 due form of law convicted thereof : And whereas judgment has been
 given by the said Court that the said (A.B.) be hanged by the neck until
 he be dead the execution of which judgment yet remains to be done, I,
 Governor of this Colony of Trinidad and Tobago do
 therefore by these presents require and strictly command you that upon
 the _____ day of _____ in the year of our Lord one
 thousand _____ between the hours of six and eleven
 in the forenoon of the same day, him the said (A.B.) at the Royal Gaol
 aforesaid to the Marshal of the said Colony you then deliver, which said
 Marshal, by another writ to him directed, is commanded then and there to
 receive the said (A.B.) that execution of the aforesaid judgment may be
 done in manner and form as to the said Marshal of the said Colony is by the
 said other writ commanded : And this you are by no means to omit at
 your peril.

SCHEDULE F.

TRINIDAD AND TOBAGO.

EDWARD by the Grace of God of the United Kingdom
of Great Britain and Ireland, King, Defender of
the Faith.

To the Marshal of the Colony of Trinidad and Tobago—

GREETING :

You are hereby required and commanded, as you regard yourself and all fines, That of the goods and chattels of all and singular the persons mentioned in the list to this writ annexed you cause to be levied, all and singular the debts and sums of money upon them severally imposed and charged and mentioned in the said list, so that the money may be ready for payment at the next criminal sessions of the Supreme Court, to be paid over in such manner as the said Court may direct ; and if any of the said several debts and sums of money cannot be levied by reason of no goods or chattels being to be found belonging to the parties, then in all cases that you take the bodies of the parties refusing to pay the aforesaid debts and sums of money, and lodge them in the Royal Gaol there to await the decision of the said Court at its next session. And have you there then this writ.

Witness His Honour
Colony at Port-of-Spain, this
in the year one thousand

, Chief Justice of our said
day of

Registrar.

No. 14.

AN ORDINANCE relating to offences against the person.

Short title.

1. This Ordinance may be cited as the Offences against the Person Ordinance.

Rule of construction.

2. Whosoever shall do or commit any act or acts which if done or committed in England would amount to or constitute the offence of murder, manslaughter, buggery or rape shall be deemed guilty of murder, manslaughter, buggery or rape, as the case may be ; and every offence mentioned in this Ordinance which would be a felony or misdemeanour according to the law of England shall be and be deemed to be a felony or misdemeanour, as the case may be, in this Colony.

Murder.

3. Every person convicted of murder, or of being an accessory before the fact to murder, shall suffer death as a felon ; and every accessory after the fact to murder shall be liable to be imprisoned for any term not exceeding four years with or without hard labour.

Conspiring or soliciting to commit murder.

4. All persons who conspire, confederate and agree to murder any person, whether he be a subject of His Majesty or not, and whether he be within the King's dominions or not, and whosoever solicits, encourages, persuades or endeavours to persuade, or proposes to any person to murder any other person, whether he be a subject of His Majesty or not, and whether he be within the King's dominions or not, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding seven years.

Manslaughter.

5. Every person convicted of manslaughter shall be liable to be imprisoned for life or for any term with or without hard labour, or to pay such fine as the Court shall award.

Justifiable homicide.

6. No punishment shall be incurred by any person who shall kill another by misfortune, or in his own defence, or in any other manner without felony.

Attempted murder by life prisoner.

7. Whosoever being under sentence of imprisonment for life attempts to commit murder shall suffer death as a felon.

Administering poison or wounding with intent to murder.

8. Whosoever not being a person under sentence of imprisonment for life administers to or causes to be administered to or to be taken by any person any poison or other destructive thing, or by any means whatsoever wounds or causes any

grievous bodily harm to any person, with intent in any of the cases aforesaid to commit murder shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for life or for any term of years.

9. Whosoever not being a person under sentence of imprisonment for life attempts to administer to or attempts to cause to be administered to or to be taken by any person any poison or other destructive thing, or shoots at any person, or by drawing a trigger or in any other manner attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate or strangle any person, with intent in any of the cases aforesaid to commit murder, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for life or for any term of years.

Attempting to administer poison, shooting or attempting to drown, &c., with intent to murder.

10. Whosoever not being a person under sentence of imprisonment for life by any means other than those specified in this Ordinance attempts to commit murder, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for life or for any term of years.

By other means attempting to commit murder.

11. Where any person, being feloniously stricken, poisoned, or otherwise hurt upon the sea or at any place out of this Colony, shall die of such stroke, poisoning or hurt in this Colony, or being feloniously stricken, poisoned or otherwise hurt in this Colony shall die of such stroke, poisoning or hurt upon the sea or at any place out of this Colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined and punished in the same manner in all respects as if such offence had been wholly committed in this Colony.

Murder, &c., where hurt abroad and death in Colony, or vice versa.

12. Whosoever shall knowingly send or deliver or utter to any other person any letter or writing threatening to kill or murder any person whomsoever shall be guilty of felony and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Sending letter threatening to kill.

13. Whosoever shall by force prevent or impede any person endeavouring to save his life from any ship or vessel which shall be in distress or wrecked, stranded or cast on

Impeding person endeavouring to save life from vessel.

shore, (whether he shall be on board, or shall have quitted the same,) shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Shooting or wounding with intent to do grievous bodily harm.

14. Whosoever unlawfully and maliciously by any means whatsoever wounds or causes any grievous bodily harm to any person, or shoots at any person, or by drawing a trigger, or in any other manner attempts to discharge any kind of loaded arms at any person with intent in any of the cases aforesaid to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding fifteen years.

What constitutes loaded arms.

15. Any gun, pistol, or other arms loaded in the barrel with gunpowder or any other explosive substance, and ball, shot, slug, or other destructive material, shall be deemed to be loaded arms within the meaning of this Ordinance, although the attempt to discharge the same may fail from want of proper priming or from any other cause.

Inflicting injury with or without weapon.

16. Whosoever unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person either with or without any weapon or instrument, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding five years.

Using chloroform, &c., with intent to commit offence.

17. Whosoever shall unlawfully apply or administer to or cause to be taken by or attempt to apply or administer to or attempt to cause to be administered to or taken by any person any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing with intent in any of such cases thereby to enable himself or any other person to commit or with intent in any of such cases to assist any such person in committing any indictable offence shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned either with or without hard labour for any term not exceeding ten years.

Administering poison so as to endanger life or inflict harm.

18. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing so as thereby

to endanger the life of such person or to inflict upon such person any grievous bodily harm shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned either with or without hard labour for any term not exceeding ten years.

19. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing with intent to injure, aggrieve or annoy such person shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned either with or without hard labour for any term not exceeding five years.

Administering poison, &c., with intent to injure or annoy.

20. If upon the trial of any person for any felony in Section 18 mentioned the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanour in Section 19 mentioned, then and in every such case the jury may acquit the accused of such felony and find him guilty of such misdemeanour, and thereupon he shall be liable to be punished in the same manner as if convicted upon indictment for such misdemeanour.

If jury not satisfied that accused is guilty of felony but only of misdemeanour may find him guilty accordingly.

21. Whosoever being legally liable either as a master or mistress to provide for any apprentice or servant necessary food, clothing or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, or unlawfully and maliciously does or causes to be done any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant is or is likely to be permanently injured, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding five years.

Not providing apprentices or servants with food, &c.

22. Whosoever unlawfully abandons or exposes any child, being under the age of two years, so that the life of such child is endangered, or the health of such child is or is likely to be permanently injured, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding five years.

Exposing children.

23. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or any other explosive substance, destroy or damage any building with intent to murder any person, or whereby the life of any person shall be endangered,

Blowing up buildings with intent to murder.

shall be guilty of felony and being convicted thereof shall be liable to be imprisoned for life or for any term of years with or without hard labour.

Causing injury
by explosive
substance.

24. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or any other explosive substance, burn, maim, disfigure, disable or do any grievous bodily harm to any person, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned, with or without hard labour for life or for any term of years.

Use of explo-
sive substance
or other
noxious thing,
with intent to
do grievous
bodily harm.

25. Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to, or cause to be taken or received by any person any gunpowder or other explosive substance, or any other dangerous or noxious thing, or cast or throw at or upon, or otherwise apply to any person any corrosive fluid or other destructive or explosive substance, with intent, in any of the cases aforesaid to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned, with or without hard labour, for life or for any term of years.

Attempt to
blow up
buildings.

26. Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any building or vessel any gunpowder or other explosive substance with intent to do any bodily damage to any person, shall, whether or not any explosion shall take place, and whether or not any injury be effected to any person, be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned, with or without hard labour, for life or for any term of years.

Making or
having gun-
powder, &c.,
with intent to
commit
offence.

27. Whosoever shall knowingly have in his possession, or make or manufacture any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit any offence against this Ordinance, shall be guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Person loiter-
ing at night
may be
arrested.

28. It shall be lawful for any constable, assistant constable, or other peace officer, to take into custody without a warrant any person whom he shall find lying or loitering in any highway or other public place, or in or about any

building whatsoever, or in or about any cane field, or any other cultivated land, during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony under Sections 12, 23, 24, 25, 26 and 27 of this Ordinance, and to detain such person until he can be brought before a Justice of the Peace to be dealt with according to law ; provided that no such person having been so apprehended shall be detained after sunset of the following day without being brought before a Justice of the Peace.

29. Whosoever shall set or place, or cause to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life, or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, shall be guilty of a misdemeanour, and being convicted thereof shall suffer such punishment by fine or imprisonment, with or without hard labour or both fine and imprisonment as the Court shall award ; and whosoever shall knowingly and wilfully permit any such spring-gun, man-trap, or other engine as aforesaid which may have been set, fixed or left in any place, then being in or afterwards coming into his possession or occupation, by some other person to continue so set or fixed, shall be deemed to have set and fixed such gun, trap, or engine with such intent as aforesaid : Provided that nothing in this section contained shall extend to make it illegal to set any gin or trap, such as may have been or may be usually set with the intent of destroying vermin : provided also, that nothing in this section shall be deemed or construed to make it a misdemeanour within the meaning of this section, to set or cause to be set or to be continued set, from sunset to sunrise, any spring-gun, man-trap, or other engine which shall be set or caused or continued to be set in a dwelling-house, for the protection thereof.

Setting spring-guns, man-traps, &c.

Traps for vermin.

Protection of dwelling house.

30. Whosoever shall assault and strike or wound any Magistrate, officer, or other person whatsoever lawfully authorized, on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore or lying under water, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Assaults on persons saving shipwrecked property.

Various
assaults.

31. Where any person shall be convicted of any of the following misdemeanours, that is to say, of any assault with intent to commit felony; of any assault upon any Stipendiary or other Justice of the Peace, constable, police officer, peace officer, or revenue officer, in the due execution of his duty, or upon any person acting in aid of such Stipendiary or other Justice of the Peace, constable, police officer, peace officer, or revenue officer; of any assault upon any person with intent to resist or prevent the lawful apprehension or detainer of the party so assaulting, or of any other person for any offence for which he or they may be liable by law to be apprehended or detained; or of any assault committed in pursuance of any conspiracy to raise the rate of wages; in any such case the Court may sentence the offender to be imprisoned for any term not exceeding two years, with or without hard labour, and may also fine the offender and require him to find sureties for keeping the peace.

Assault
occasioning
bodily harm.

32. Whosoever is convicted upon an indictment of any assault occasioning actual bodily harm shall be liable to be imprisoned, with or without hard labour, for any term not exceeding five years; and whosoever is convicted upon an indictment of a common assault or battery shall be liable to be fined in any sum not exceeding one hundred pounds or to be imprisoned, with or without hard labour, for any term not exceeding two years, or, subject to the limitations aforesaid, to be punished both by fine and imprisonment.

Common
assault.

Arresting a
clergyman
during service.

33. If any person shall arrest any Clergyman upon any civil process while he shall be performing Divine Service, or shall, with the knowledge of such person, be going to perform the same or returning from the performance thereof, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall suffer such punishment by fine or imprisonment, or by both, as the Court shall award.

Rape.

34. Every person convicted of the crime of rape shall be liable to be imprisoned for life or for any term of years with or without hard labour.

Every person who induces a married woman to permit him to have connection with her by personating her husband shall be deemed to be guilty of rape.

Proof of carnal
knowledge.

35. Upon trials for the crimes of buggery, rape, and unlawful carnal knowledge it shall not be necessary in any case to prove the actual emission of seed in order to constitute a

carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.

36. Any person who unlawfully and carnally knows any girl under the age of thirteen, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, nor less than two years, with or without hard labour. Carnal knowledge of girl under 13.

Any person who attempts to have unlawful carnal knowledge of any girl under the age of thirteen years, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour :

Provided that in the case of an offender who in the opinion of the Court before whom he is brought is of the age of fourteen and under the age of sixteen years, the Court may, instead of sentencing him to any term of imprisonment, order him to undergo corporal punishment.

Where upon the hearing of a charge under this section, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the Court or Stipendiary Justice, understand the nature of an oath, the evidence of such girl or other child of tender years may be received, though not given upon oath, if, in the opinion of the Court or Stipendiary Justice, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth : Provided that no person shall be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution shall be corroborated by some other material evidence in support thereof implicating the accused :

Provided also that any witness whose evidence has been admitted under this section shall be liable to indictment and punishment for perjury in all respects as if he had been sworn.

37. Any person who

- (1.) Unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any girl being of or above the age of thirteen years and under the age of fourteen years ; or Carnal knowledge of girl between 13 and 14.

Idiots or
imbeciles.

- (2.) Unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile,

shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Provided that it shall be a sufficient defence to any charge under sub-section one of this section if it shall be made to appear to the Court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of fourteen years.

Householder,
&c., permitting
defilement of
young girl on
his premises.

38. Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any girl of such age as is in this section mentioned to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally,

- (1.) shall, if such girl is under the age of thirteen years, be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour; and
- (2.) if such girl is of or above the age of thirteen and under the age of fourteen years, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that it shall be sufficient defence to any charge under this section if it shall be made to appear to the Court or Jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of fourteen years.

Procuration.

39. Any person who,

- (1.) Procures or attempts to procure any girl or woman under twenty-one years of age, not being

a common prostitute, or of known immoral character, to have unlawful carnal connection either within or without this Colony, with any other person or persons; or

- (2.) Procures or attempts to procure any woman or girl to become, either within or without this Colony, a common prostitute; or
- (3.) Procures or attempts to procure any woman or girl to leave this Colony, with intent that she may become an inmate of a brothel elsewhere; or
- (4.) Procures or attempts to procure any woman or girl to leave her usual place of abode in this Colony (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of a brothel within or without this Colony;

shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with or without hard labour.

40. Any person who,

- (1.) By threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either within or without this Colony; or
- (2.) By false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either within or without this Colony; or
- (3.) Applies, administers to, or causes to be taken by any woman or girl any drug, matter or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl,

Procuring
defilement of
woman or girl
by threats,
false pretences
or use of drugs
&c.

shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour:

Provided that no person shall be convicted of an offence under this and the last preceding section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

Abduction of
girl under 16,
with intent to
have carnal
knowledge.

41. Any person who with intent that any unmarried girl under the age of sixteen years should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally, takes or causes to be taken such girl out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the Court or Jury that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years.

Detention
with intent to
have carnal
knowledge.

42. Any person who detains any woman or girl against her will—

(1.) In or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man, or generally, or

(2.) In any brothel,

shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Where a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises, or in such brothel, if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or, where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the direction of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

43. If it appears to any Stipendiary or other Justice of the Peace, on information made before him on oath by any parent, relative, or guardian of any woman or girl, or any other person who, in the opinion of the Justice, is *bond fide* acting in the interest of any woman or girl that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within this Colony, such Justice may issue a warrant authorizing any person named therein to search for, and when found, to take to and detain in a place of safety such woman or girl until she can be brought before a Stipendiary Justice, and the Stipendiary Justice before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

Power of search in case of detention for immoral purposes.

The Stipendiary or other Justice issuing such warrant may, by the same or any other warrant cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before any Justice, and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and

- (a) Either is under the age of thirteen years ; or
- (b) If of or over the age of thirteen years, and under the age of sixteen years, is so detained against her will, or against the will of her father or mother or of any other person having the lawful care or charge of her ; or
- (c) If of or above the age of sixteen years is so detained against her will.

Any person authorized by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place specified in such warrant, and may remove such woman or girl therefrom. Provided always, that every warrant issued under this section shall be addressed to and executed by some commissioned or non-commissioned officer of Police, who shall be accompanied by the parent, relative or guardian or other person making the information, if such person so desire, unless the Justice shall otherwise direct.

On indictment
for rape jury
may convict of
certain mis-
demeanours.

44. If upon the trial of any indictment for rape, or any offence made felony by Section 36 of this Ordinance, the Jury shall be satisfied that the defendant is guilty of an offence under Sections 36, 37 or 40 of this Ordinance, or of an indecent assault, but are not satisfied that the defendant is guilty of the felony charged in such indictment, or of an attempt to commit the same, then and in every such case the Jury may acquit the defendant of such felony, and find him guilty of such offence as aforesaid, or of an indecent assault, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such offence as aforesaid, or for the misdemeanour of indecent assault.

Brothels—
suppression of.

45. Any person who,

- (1) keeps or manages or acts or assists in the management of a brothel, or
- (2) being the tenant, lessee, or occupier of any premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or
- (3) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall on summary conviction be liable,

- (1) to a penalty not exceeding twenty pounds, or to imprisonment for any term not exceeding three months, with or without hard labour, and
- (2) on a second or subsequent conviction to a penalty not exceeding forty pounds, or to imprisonment for any term not exceeding four months, with or without hard labour ;

and in case of a third or subsequent conviction such person may, in addition to such penalty or imprisonment as last aforesaid, be required by the Court to enter into a recognizance, with or without sureties, as to the Court seems meet, to be of good behaviour for any period not exceeding twelve months, and in default of entering into such recognizance, with or without sureties (as the case may be),

such person may be imprisoned for any period not exceeding three months, in addition to any such term of imprisonment as aforesaid.

Any person making default in the immediate payment of any pecuniary penalty imposed under this section may be imprisoned for any term not exceeding three months, with or without hard labour.

46.—(1.) Whosoever is convicted of any indecent assault upon any female shall be liable to be imprisoned with or without hard labour for any term not exceeding five years. Indecent assault, &c.

(2.) It shall be no defence to a charge or indictment for an indecent assault on a young person under the age of thirteen years to prove that he or she consented to the act of indecency.

47. Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person, or any female person who in public or private commits or is a party to the commission of, or procures or attempts to procure the commission by any female person of any act of gross indecency with another female person shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour. Gross indecency.

48. Where on the trial of any offence under this Ordinance it is proved to the satisfaction of the Court that the seduction or prostitution of a girl under the age of thirteen has been caused, encouraged, or favoured by her father, mother, guardian, master, or mistress, it shall be in the power of the Court to divest such father, mother, guardian, master, or mistress of all authority over her and to appoint any person or persons willing to take charge of such girl to be her guardian until she has attained the age of twenty-one, or any age below this as the Court may direct, and the Court shall have power from time to time to rescind or vary such order by the appointment of any other person or persons as such guardian, or in any other respect. Custody of girl under thirteen.

49. Where any woman shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be an heiress presumptive or next of kin to any one having such Forcible abduction.

interest, if any person shall from motives of lucre take away or detain such woman against her will with intent to marry or defile her, or to cause her to be married or defiled by any person, every such offender and every other person counselling, aiding, or abetting such offender shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Abduction of
girl from
parents or
guardians.

50. If any person shall unlawfully take, or cause to be taken, any unmarried girl, being under the age of fourteen years, out of the possession and against the will of her father or mother, or any other person having the lawful care or charge of her, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, or by both, as the Court shall award.

Child stealing.

51. If any person shall maliciously, either by force or fraud, lead or take away, or decoy or entice away, or detain any child under the age of ten years, with intent to deprive the parent or parents or any other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, or if any person shall with any such intent as aforesaid receive or harbour any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away, or detained as hereinbefore mentioned, every such offender and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with or without hard labour, and if a male to undergo corporal punishment (if the Court shall so think fit) in addition to such imprisonment, or imprisonment with hard labour: Provided always, that no person who shall have claimed to be the father of an illegitimate child, or to have any right to the possession of such child, shall be liable to be prosecuted by virtue hereof on account of his getting possession of such child, or taking such child out of the possession of the mother or any other person having the lawful charge thereof.

Fathers taking
their illegiti-
mate children.

Bigamy.

52. Whosoever, being married, shall marry any other person during the lifetime of the former husband or wife, whether the second marriage shall have taken place in this Colony or

elsewhere, every such offender and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour: Provided always that nothing herein contained shall extend to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last passed, and shall not have been known by such person to be living within that time, or shall extend to any person who at the time of such second marriage shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

53. Every woman being with child who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing or shall unlawfully use any instrument or other means whatsoever with the like intent, and whosoever with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and on conviction thereof, shall be liable to imprisonment with or without hard labour for any term not exceeding four years. Procuring abortion.

54. Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment with or without hard labour for any term not exceeding two years. Procuring drugs, &c., to cause abortion.

55. If any woman shall be delivered of a child, every person who shall by any secret disposition of the dead body of the said child, whether such child died before, at, or after its birth, endeavour to conceal the birth thereof, shall be guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding two years. Concealment of birth.

Provided that if any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the

jury by whose verdict such person shall be acquitted to find, in case it shall so appear in evidence, that the child had recently been born, and that such person did by some secret disposition of the dead body of such child endeavour to conceal the birth thereof, and thereupon the Court may pass such sentence as if such person had been convicted upon an indictment for the concealment of the birth.

Sodomy.

56. Every person convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned for any term not exceeding five years, nor less than two years, with or without hard labour; and if a male, to undergo corporal punishment if the Court shall see fit, in addition to such imprisonment.

Evidence.

57. Every person charged with an offence under Sections 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50 of this Ordinance and the husband or wife of the person so charged shall be competent but not compellable witnesses on every hearing and at every stage of such charge.

**Power to
convict of
misdemeanours
upon indictment
for certain
felonious
assaults.**

58. If upon the trial of any indictment for any felony except murder or manslaughter, where the indictment alleges that the defendant wounded any person, the jury are satisfied that the defendant is guilty of unlawfully and maliciously wounding as charged in such indictment, but are not satisfied that the defendant is guilty of the felony charged in such indictment, the jury may acquit the defendant of such felony and find him guilty of the misdemeanour of unlawfully and maliciously wounding, and thereupon such defendant shall be liable to be imprisoned, with or without hard labour, for any term not exceeding five years.

Saving.

59. This Ordinance shall not exempt any person from any proceeding for an offence which is punishable at common law, or under any Act of Parliament, or Ordinance other than this Ordinance, so that a person be not punished twice for the same offence.

No. 15.

AN ORDINANCE relating to Larceny and similar offences.

1. This Ordinance may be cited as the Larceny Ordinance. Short title.

2. In this Ordinance :

The term "Valuable Security" includes any tally, order, or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the United Kingdom of Great Britain, or of Ireland, or of India, or of any foreign state, or of any colony or dependency of the United Kingdom or of any foreign state, or in any stock or fund of any body corporate, company, or society, whether within the United Kingdom, or Ireland, or India, or any foreign state, or any colony or dependency of the United Kingdom or of any foreign state, or to any deposit in any bank ; and also includes any document of title to lands or goods, and any debenture, deed, bond, bill, note, warrant, order, or other security for money or for payment of money, whether of the United Kingdom, or of Ireland, or of India, or of any foreign state, or of any colony or dependency of the United Kingdom, or of any foreign state ; and also includes any warrant or order for the delivery or transfer of any goods or valuable thing.

Interpre-
tation-
Valuable
security.

The term "trustee" means a trustee on some express trust created by some deed, will or other instrument in writing, and includes the heir or personal representative of any such trustee, and any other person upon or to whom the duty of such trust devolves or comes, and also an executor and administrator, and an official manager, assignee, liquidator or other like officer, acting under any present or future Ordinance relating to joint-stock companies, bankruptcy or insolvency.

Trustee.

The term "property" includes every description of real and personal property, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and also includes not only such property as was originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged,

Property.

and any thing acquired by such conversion or exchange whether immediately or otherwise.

Larceny,
robbery, &c.,
defined.

3. Whosoever shall do or commit any act or acts, which if done or committed in England would amount to or constitute the offence of larceny, or robbery, or burglary, or embezzlement, shall be and be held to be guilty of larceny, robbery, burglary, or embezzlement, as the case may be; and every offence mentioned in this Ordinance which would amount to a felony or a misdemeanour by the law of England, shall be held and taken to be a felony or misdemeanour, as the case may be, within this Colony.

Larceny.

4. Every person convicted of larceny, or of any felony hereby made punishable like larceny, shall (except in the cases hereinafter otherwise provided for) be liable to be imprisoned with or without hard labour for any term not exceeding three years.

Stealing
valuable
security.

5. Whosoever shall steal any valuable security shall be deemed guilty of felony of the same nature and in the same degree and punishable in the same manner as if he had stolen any chattel of like value with the share interest or deposit to which such valuable security so stolen may relate, or with the money due on such valuable security or secured thereby, and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in such valuable security.

Larceny by
bailee.

6. Whosoever being a bailee of any chattel, money, or valuable security, fraudulently takes or converts the same to his own use or to the use of any person other than the owner thereof, although he does not break bulk, or otherwise determine the bailment, shall be deemed to have feloniously stolen the same and may be convicted and punished accordingly upon an ordinary indictment or information for larceny.

Page 235.—In Section 11—(2), line 3, “to” should be “or.”

weapon or instrument, rob, or assault with intent to rob any

person, or shall together with one or more person or persons, rob, or assault with intent to rob any person, or shall rob any person, and at the time of, or immediately before, or immediately after such robbery, shall beat, strike, or use any other personal violence to any person, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding four years, nor less than one year.

9. Whosoever shall rob any person, or shall steal any property from the person of another, shall be guilty of felony, and shall be liable to be imprisoned with or without hard labour for any term not exceeding three years. Stealing from the person.

10. Whosoever shall assault any person with intent to rob shall be guilty of felony, and being convicted thereof, shall (save and except in the cases where a greater punishment is provided by this Ordinance) be liable to be imprisoned with or without hard labour for any term not exceeding three years. Assault with intent to rob.

11.—(1.) If any person shall knowingly send or deliver any letter or writing, demanding of any person with menaces and without any reasonable or probable cause any chattel, money, or valuable security, or if any person shall accuse or threaten to accuse, or shall knowingly send or deliver any letter or writing accusing or threatening to accuse any person of any crime punishable by law with death, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime as hereinafter defined, with a view or intent to extort or gain from such person any chattel, money, or valuable security, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding four years nor less than one year; and if a male, Sending letters containing menacing demands, or threatening to accuse of infamous crime.

this Ordinance.

Attempting to
obtain
property by
menaces.

12. Whosoever shall, with menaces or by force, demand any chattel, money, or valuable security of any person with intent to steal the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding three years.

Sending
threatening
letters
accusing
others with
certain crimes.

13. If any person shall knowingly send, or deliver, or utter to any other person any letter or writing accusing or threatening to accuse either the person to whom such letter or writing shall be sent or delivered, or any other person, of any crime which if committed in England would be punishable with death, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, with a view or intent to extort or gain by means of such threatening letter or writing any property, money, security, or other valuable thing from any person whomsoever, or shall knowingly procure, counsel, aid, or abet the commission of any of the offences aforesaid, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding three years.

Accusing of
crimes
hereinbefore
mentioned,
with the view
of extorting
money, &c.

14. If any person shall accuse or threaten to accuse either the person to whom such accusation or threat shall be made or any other person of any of the crimes hereinbefore specified with the view or intent, in any of the cases last aforesaid, to extort or gain from such person so accused or threatened to be accused, or from any other person whomsoever, any property, money, security or other valuable thing, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding three years.

Punishment
for burglary.

15. Whosoever is convicted of burglary shall be liable to be imprisoned with or without hard labour for any term not exceeding fifteen years.

Burglary
with assault.

16. Whosoever shall burglariously break and enter into any dwelling-house, and shall assault with intent to murder any person being therein, or shall stab, cut, wound, beat or strike any such person, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for life or for any term not less than two years.

17. Whosoever enters the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house commits any felony therein, and in either case breaks out of the said dwelling-house in the night, shall be deemed guilty of burglary. Breaking out.

18. So far as the same is essential to the offence of burglary and the offences specified in Sections 27 and 28 hereof, the night shall be considered and is hereby declared to commence at eight o'clock of the evening of each day, and to conclude at five o'clock of the morning of the next succeeding day. Night.

19. Whosoever shall break and enter any dwelling-house and steal therein any chattel, money, or valuable security to any value whatsoever, or shall steal any such property in any dwelling-house, and shall by any menace or threat put any one being therein in bodily fear, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term of years not being less than two years, with or without hard labour. House breaking and stealing, person put in fear.

20. If any person shall steal in any dwelling-house any chattel, money, or valuable security, to the value in the whole of five pounds sterling, or more, every such offender, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour. Stealing £5 in dwelling house.

21. If any person shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel, shall break out of the same, every such offender being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, nor less than one year, with or without hard labour. Breaking and entering a Church.

22. Whosoever breaks and enters any dwelling-house or any building within the curtilage thereof, or any church, chapel, meeting-house or other place of Divine worship, or any school-house, store, shop, warehouse, counting-house, or any building used for the manufacture or safe custody of any produce or material, with intent to commit any felony therein, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding ten years. House-breaking, &c., with intent to commit felony.

23. Whosoever enters any dwelling-house in the night with intent to commit any felony therein shall be guilty of Entering house in night with

intent to
commit felony.

felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding ten years.

What
buildings are
part of a
house.

24. No building, although within the same curtilage with the dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for the purpose of burglary, or for any of the purposes aforesaid, unless there shall be a communication between such building and dwelling-house, either immediate or by means of a covered or enclosed passage leading from the one to the other.

Breaking into
building
within
curtilage and
committing
felony.

25. Whosoever shall break and enter any building and commit any felony therein, such building being within the curtilage of a dwelling-house and occupied therewith but not being part thereof by reason of there being no communication between such building and dwelling-house either immediate or by means of a covered or enclosed passage leading from the one to the other, or being in such building shall commit any felony therein and break out of the same, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding four years.

Breaking and
entering
building and
committing
felony therein.

26. Whosoever shall break and enter any dwelling-house, school-house, shop, warehouse, counting-house, store, boiling-house, still-house, curing-house, cellar, granary, or other building and commit any felony therein; or being in any dwelling-house, school-house, shop, warehouse, counting-house, store, boiling-house, still-house, curing-house, cellar, granary, or other building, shall commit any felony therein and break out of the same shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding four years.

Breaking out.

Being armed
with intent to
break and
enter any
house in the
night.

27. Whosoever shall be found by night armed with any dangerous or offensive weapon or instrument whatsoever with intent to break or enter any dwelling-house or other building whatsoever and to commit any felony therein, or shall be found by night having in his possession without lawful excuse (the proof of which excuse shall lie on such person) any picklock, key, crow, jack, bit, or other implement of house-breaking, or shall be found by night having his face blackened or otherwise disguised with intent to commit any felony, or shall be found by night in any dwelling-house or other building whatsoever with intent to

commit any felony therein, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned either with or without hard labour for any term not exceeding three years.

28. Whosoever shall be convicted of any such misdemeanour as in the last preceding section mentioned, committed after a previous conviction either for felony or for such misdemeanour, shall on such subsequent conviction be liable to be imprisoned either with or without hard labour for any term not exceeding six years.

The like after
a previous
conviction for
felony.

29. If any person shall steal any sugar, rum, sling, syrup, or molasses, being in any boiling-house or curing-house or in any store or warehouse, or being in any cask or package in the neighbourhood of such boiling-house, curing-house, store, or warehouse; or any cocoa or coffee, or coffee berries, from any cocoa-house or coffee-house or any other place on any plantation or estate where the same is placed for the purpose of being dried or cured, or in any store or warehouse, or from any sack, bag, cask, or package placed in the neighbourhood thereof, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding three years.

Stealing
sugar, rum,
sling, cocoa or
coffee.

30. If any person shall steal any goods or merchandize in any vessel, barge, flat, or boat of any description whatsoever, being at anchor within the Gulf of Paria, or in any of the waters surrounding this Colony or bound to or from any part of the coast of this Colony or any vessel within any port thereof, from or to any other part of the coast of the said Colony or any other vessel within any port therein, or in any port or usual place of discharge, or upon any navigable river or canal, or in any creek belonging to, or communicating with any such port, place of discharge, river or canal, or shall steal any goods or merchandize from any dock, wharf, embarcadere, or quay adjacent to any such port, place of discharge, river, canal, or creek, every such offender, being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding four years.

Stealing goods
from a vessel.

31. Whosoever shall plunder or steal any part of any ship or vessel, which shall be in distress or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, and shall be convicted

Plundering a
ship or cargo
wrecked.

thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding four years.

Stealing, &c.,
records and
proceedings of
Court.

32. If any person shall steal, or shall for any fraudulent purpose, take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, decree, or warrant of attorney, or any original document whatever, of or belonging to any Court of Record, or relating to any cause or matter, begun, depending or terminated in any such Court, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to suffer such punishment by fine or imprisonment, or by both, as the Court shall award. In any indictment for such offence it shall not be necessary to allege that the article in respect of which the offence is committed is the property of any person or is of any value.

Stealing, etc.,
of wills.

33. If any person shall, either during the life of the testator or after his death, steal, or for any fraudulent purpose destroy, alter or erase, either wholly or in part, or conceal any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, every such offender shall be guilty of misdemeanour, and being convicted thereof, shall be liable to any of the punishments which the Court may award, as hereinbefore last mentioned, and it shall not in any indictment for such offence be necessary to allege that such will, codicil, or other instrument is the property of any person, or that the same is of any value.

Stealing
writings
relating to
real estate.

34. If any person shall steal any paper or parchment, written or printed, or partly written and partly printed, being evidence of the title, or of any part of the title to any real estate, every such offender shall be deemed guilty of a misdemeanour, and being convicted thereof, shall be liable to any of the punishments which the Court may award, as hereinbefore last mentioned, and in any indictment for such offence, it shall be sufficient to allege the thing stolen to be evidence of the title, or of part of the title, of the person, or of some one of the persons having a present interest, whether legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof, and it shall not be necessary to allege the thing stolen to be of any value.

35. Provided that nothing in the last two preceding sections contained nor any proceeding, conviction or judgment to be had or taken thereupon shall prevent, lessen, or impeach any remedy at law or in equity, which any party aggrieved by any such offence may have, but nevertheless, the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him, and no person shall be liable to be convicted of any such misdemeanour by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being indicted for such offence, have disclosed such act on oath, in consequence of any compulsory process of any Court of Law or Equity, in any action, suit, or proceeding, which shall have been *bona fide* instituted by any party aggrieved.

36. If any person shall steal any horse, mare, gelding, colt or filly, or any mule or ass, or any bull, cow, ox, heifer or calf, or any ram, ewe, sheep or lamb, or shall wilfully kill any of such cattle with intent to steal the carcass or skin or any part of the cattle so killed, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding four years. Stealing animals.

37. If any person shall steal, or rip, cut, or break with intent to steal, any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material respectively, fixed in or to any building whatever, or any thing made of metal fixed in any land, being private property, or for a fence to any dwelling-house, garden, or area, or in any square, street or other place dedicated to public use or ornament, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same manner as in the case of simple larceny. In case of any such thing fixed in any square, street or other like place it shall not be necessary to allege the same to be the property of any person. Stealing glass, wood work, lead, iron, or fixtures.

38. If any person shall steal any chattel or fixture, let to be used by him or her in or with any house or lodging, (whether the contract shall have been entered into by him or her, or by her husband, or by any person on behalf of him or her or her husband), every such offender shall be guilty of felony and being convicted thereof shall be liable to be punished in the same manner as in the case of simple Tenants and lodgers stealing from houses or apartments.

larceny and in every such case of stealing any chattel, it shall be lawful to prefer an indictment in the common form as for larceny, and in every such case of stealing any fixture, to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case, to lay the property in the owner or person letting to hire.

Clerks and
servants
stealing
property of
master.

39. If any clerk or servant shall steal any chattel, money, or valuable security belonging to or in the possession or power of his master, every such offender, being convicted thereof, shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years.

Embezzlement
by clerks or
servants.

40. If any clerk or servant, or any person employed for the purpose, or in the capacity of clerk or servant shall, by virtue of such employment, receive or take into his possession any chattel, money, or valuable security for, or in the name, or on account of his master, and shall fraudulently embezzle the same, or any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master, although such chattel, money, or security was not received into the possession of such master, otherwise than by the actual possession of his clerk, servant, or other person so employed, and every such offender, being convicted thereof, shall be liable to such punishment as hereinbefore last mentioned.

Indictments
for
embezzlement.

41. It shall be lawful to charge in the indictment, and proceed against the offender for any number of distinct acts of embezzlement or of fraudulent application or disposition as aforesaid, not exceeding three, which may have been committed by him against the same master within the space of six calendar months from the first to the last of such acts, and in every such indictment, except when the offence shall relate to any chattel, it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of money, without specifying any particular coin or valuable security, and such allegation, so far as regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved, or if he shall be proved to have embezzled or fraudulently applied or disposed of any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security

may have been delivered to him, in order that some part of the value thereof should be returned to the party delivering the same or to some other person and although such part shall have been returned accordingly.

42. Whosoever being employed in the public service of His Majesty, or being a Warden of any ward, or a constable or other person employed in the Police of the Colony, or of any borough, ward, or place whatsoever, shall steal any chattel, money, or valuable security belonging to or in the possession or power of His Majesty, or intrusted to or received or taken into possession by him by virtue of his employment shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years with or without hard labour.

Public servants
stealing
money, &c.,
entrusted to
them.

43. Whosoever being employed in the public service of His Majesty, or being a Warden of any ward, or a constable or other person employed in the Police of the Colony, or of any borough, ward, or place, and entrusted by virtue of such employment with the receipt, custody, management or control of any chattel, money, or valuable security, shall embezzle any chattel, money, or valuable security which shall be entrusted to or received or taken into possession by him by virtue of his employment, or any part thereof, or in any manner, fraudulently apply or dispose of the same, or any part thereof to his own use or benefit, or for any purpose whatsoever except for the public service, shall be deemed to have feloniously stolen the same from His Majesty, and being thereof convicted, shall be liable to be imprisoned with or without hard labour for any term not exceeding three years.

Public servants
embezzling
money &c.

44. If any person employed and entrusted as in the last two preceding sections mentioned shall embezzle or fraudulently apply or dispose of any valuable security he shall be deemed to have stolen the same and shall be punishable in the same manner as if he had stolen any chattel of like value with the share, interest or deposit to which such security may relate, or with the money due on such security or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in such security.

Embezzlement
of valuable
security.

45. In every case of embezzlement or fraudulent application or disposition under Sections 42 and 43 it shall be lawful in the warrant of commitment by the Justice and in the indictment to lay the property in any such chattel, money or valuable security as aforesaid in His Majesty.

Indictment.

Falsification of
Accounts.

46. If any clerk, officer or servant whether in the Public Service or otherwise shall wilfully and with intent to defraud, remove, conceal, destroy, alter, mutilate or falsify any book, paper writing, valuable security or account which belongs to or is in the possession of the Government or of his employer, or has been received by him for or on behalf of the Government or of his employer, or shall wilfully and with intent to defraud, make or concur in making any false entry in, or omit or alter, or concur in omitting or altering any material particular from or in any such book, or any document or account, every such offender shall be guilty of a misdemeanour, and be liable to be imprisoned with or without hard labour for any term not exceeding five years.

Embezzlement
by agents.

47. If any money or security for the payment of money shall be entrusted to any banker, merchant, broker, attorney, or other agent, with any direction in writing to apply such money or any part thereof, or the proceeds, or any part of the proceeds of such security for any purpose specified in such direction, and he shall in violation of good faith, and contrary to the purpose so specified in any wise convert to his own use or benefit such money, security or proceeds, or any part thereof respectively, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to suffer such punishment by fine or imprisonment, or by both, as the Court shall award; and if any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, established by authority of Parliament, or of any foreign state, or in any stock or fund of any body corporate, company or society, shall be entrusted to any banker, merchant, broker, attorney, or other agent for safe custody, or for any special purpose, without any authority to sell, negotiate, transfer, or pledge, and he shall in violation of good faith, and contrary to the object or purpose for which such chattel, security, or power of attorney shall have been entrusted to him, sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund, to which such power of attorney shall relate or any part thereof, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to such punishment as hereinbefore last mentioned.

Trustees,
mortgagees, or
bankers, &c.,

Provided that nothing hereinbefore contained relating to agents shall affect any trustee in or under any instrument

whatever, or any mortgagee of any property, real or personal in respect of any act done by such trustee or mortgagee, in relation to the property comprised in, or affected by any such trust or mortgage, nor shall restrain any banker, merchant, broker, attorney, or other agent, from receiving any money which shall be, or become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, nor from selling, transferring, or otherwise disposing of any securities or effects in his possession, upon which he shall have any lien, claim, or demand, entitling him by law so to do, unless such sale, transfer, or other disposal shall extend to a greater number or part of such securities or effects than shall be requisite to satisfy such lien, claim or demand.

48. Whosoever being a trustee of any property for the use or benefit, either wholly or partially, of some other person, or for any public or charitable purpose, does with intent to defraud, convert or appropriate the same or any part thereof to or for his own use or benefit, or to or for the use or benefit of any person other than such person as aforesaid or for any purpose other than such public or charitable purpose as aforesaid or otherwise dispose of or destroy such property, or any part thereof, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding five years : Provided that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of the Public Prosecutor. Provided also that where any civil proceeding has been taken against any person to whom the provisions of this section may apply, no person who has taken such civil proceeding shall commence any prosecution under this section without the sanction of the Court or Judge before whom such civil proceeding has been had or is pending.

Trustees
fraudulently
disposing of
property.

49. Whosoever being a banker, merchant, broker, attorney or agent, and being intrusted either solely or jointly with any other person with the property of any other person for safe custody shall with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or appropriate the same or any part thereof to or for his own use or benefit or to or for the use or benefit of any person other than the person by whom he was so intrusted, shall be guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding five years.

Brokers, &c.,
fraudulently
selling, &c.,
property.

Attorney
fraudulently
selling
property.

50. Whosoever being intrusted, either solely or jointly with any other person, with any power of attorney for the sale or transfer of any property, fraudulently sells or transfers or otherwise converts the same or any part thereof to his own use or benefit, or to the use or benefit of any person other than the person by whom he was so intrusted, shall be guilty of a misdemeanour, and on conviction thereof may be imprisoned, with or without hard labour, for any term not exceeding five years.

Factors
pledging for
their own use
goods or
documents
entrusted to
them for sale.

51. If any factor or agent entrusted for the purpose of sale with any goods or merchandize, or entrusted with any bill of lading, warehouse keeper's or wharfinger's certificate, or warrant, or order for delivery of goods or merchandize, shall for his own benefit, and in violation of good faith, deposit or pledge any such goods or merchandize, or any of the said documents as a security for any money or negotiable instrument, borrowed or received by such factor or agent, at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable, at the discretion of the Court, to suffer such punishment by fine or imprisonment, or by both, as the Court shall award; but no such factor or agent shall be liable to any prosecution for depositing or pledging any such goods or merchandize, or any of the said documents, in case the same shall not be made a security for, or subject to the payment of any greater sum of money than the amount which, at the time of such deposit or pledge was justly due and owing to such factor or agent from his principal, together with the amount of any bill or bills of exchange, drawn by or on account of such principal, and accepted by such factor or agent.

Not to extend
to cases where
pledge does
not exceed
amount of
their lien.

These provi-
sions as to
agents shall
not lessen any
remedy which
the party
aggrieved now
has.

In what cases
agents not
liable to be
prosecuted.

52. Nothing in this Ordinance contained, nor any proceeding, conviction, or judgment to be had or taken thereupon, against any banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall prevent, lessen, or impeach any remedy at law or in equity, which any party aggrieved by any such offence may have, but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him, and no banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall be liable to be convicted by any evidence whatever, as an offender against this Ordinance, in respect of any act

done by him, if he shall at any time previously to his being indicted for such offence have disclosed such act on oath, in consequence of any compulsory process of any Court of Law or Equity, in any action, suit or proceeding which shall have been *bonâ fide* instituted by any party aggrieved.

53. If any person, being a member of any co-partnership, or being one of two or more beneficial owners of any money, goods or effects, bills, notes, securities or other property, steals or embezzles any such money, goods or effects, bills, notes, securities or other property of or belonging to any such co-partnership, or to such joint beneficial owners, every such person shall be liable to be dealt with, tried, convicted and punished for the same as if such person had not been or was not a member of such co-partnership, or one of such beneficial owners.

Member of
co-partnership
converting to
his own use
property of
co-partnership.

54. Any person who, having contracted with another to make any thing or execute any work, obtains from that other any money to be laid out in providing material, tools or other things necessary or suitable for the making of the thing or the execution of the work, and who, in breach of good faith and contrary to the terms of his contract, converts such money or any part thereof to his own use or to the use of any person other than the person from whom he obtained such money, shall be guilty of an offence and on conviction thereof before any Stipendiary Justice may be imprisoned, with or without hard labour, for any term not exceeding three months, and also be ordered to pay to the party aggrieved any sum not exceeding twenty pounds by way of compensation, and to be further imprisoned for the term of one month, with or without hard labour, unless such sum be sooner paid: Provided that it shall be lawful for His Majesty, or for the Governor on behalf of His Majesty, to remit the whole or any part of any imprisonment awarded under this section, notwithstanding that such imprisonment is in default of payment of money payable to a subject.

Persons
receiving
money under
contract for
certain pur-
poses, and
converting
same to their
own use.

55. Nothing in Sections 6, 48, 49, 50, 53, and 54 of this Ordinance contained shall enable or entitle any person to refuse to answer any question or interrogatory in any civil proceeding in any Court, or upon the hearing of any matter in bankruptcy; and no person shall be liable to be convicted of any of the offences in the said sections by any evidence whatever in respect of any act done by him if he at any time previously to his being charged with such offence has first

No person to
be exempt
from
answering,
but no person
making a
disclosure
liable to
prosecution

disclosed such act on oath, in consequence of any compulsory process of any Court of Law or Equity in any action, suit or proceeding, *bond fide* instituted by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any Court upon the hearing of any matter in bankruptcy.

No remedy at law or in equity shall be affected.

56. Nothing in Sections 6, 48, 49, 50, 53, 54 and 55 of this Ordinance contained, nor any proceeding, conviction or judgment to be had or taken thereon against any person under any of the said sections shall prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by any offence against this Ordinance may have: but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him, and nothing in this Ordinance contained shall affect or prejudice any agreement entered into or security given by any trustee having for its object the restoration or repayment of any trust property misappropriated.

Obtaining money, etc., by false pretences.

No acquittal if larceny proved.

57. Whosoever shall, by any false pretence, obtain from any other person any chattel, money, or valuable security, with intent to cheat or defraud any person of the same shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to suffer such punishment by fine or imprisonment as the Court shall award: Provided that if upon the trial of any person indicted for such misdemeanour it shall appear that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable to be afterwards prosecuted for larceny upon the same facts.

Receivers may be tried as accessories or for substantive felony.

58. If any person shall receive any chattel, money, valuable security or other property whatsoever, the stealing or taking whereof would amount to a felony by the Common Law of England, or by virtue of this Ordinance, or any other Ordinance now or hereafter to be in force in this Colony, such person knowing the same to have been feloniously stolen, taken or obtained, every such receiver shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact, or for a substantive felony, whether in the latter case the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and every such receiver, howsoever convicted, shall be liable to be imprisoned for any term not exceeding

three years with or without hard labour: Provided that no person howsoever tried for receiving as aforesaid shall be liable to be prosecuted a second time for the same offence.

59. If any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, or converting whereof is made an indictable misdemeanour by this Ordinance, or any Ordinance now or hereafter to be in force in this Colony, such person knowing the same to have been unlawfully stolen, taken, obtained, or converted, every such receiver shall be guilty of a misdemeanour, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanour shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice, and every such receiver shall, on conviction, be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Where original offence is a misdemeanour receivers may be tried for misdemeanour.

60. If any person guilty of any felony or misdemeanour as aforesaid, in stealing, taking, obtaining, or converting, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, shall be indicted for any such offence by or on the behalf of the owner of the property, or his heir, executor, or administrator, and convicted thereof, in such case the property shall be restored to the owner, or his representative, and the Court before whom any such person shall be so convicted shall have the power to award from time to time writs of restitution for the said property, or to order the restitution thereof, in a summary manner: Provided always, that if it shall appear before any award or order made that any valuable security shall have been *bona fide* paid or discharged by some person or body corporate, liable to the payment thereof, or being a negotiable instrument, shall have been *bona fide* taken or received by transfer or delivery by some person or body corporate for a just and valuable consideration without any notice or any reasonable cause to suspect that the same had, by any felony or misdemeanour, been stolen, taken, obtained, or converted as aforesaid, in such case the Court shall not award or order the restitution of such security.

Restitution of stolen property.

61. Whosoever shall corruptly take any money or reward directly or indirectly, under pretence or on account of helping any person to any chattel, money, valuable security or other property whatsoever which shall by any felony or

Taking reward for helping to recover stolen property, without bringing offender to trial.

misdeemeanour have been stolen, taken, obtained or converted as aforesaid, shall (unless he shall cause the offender to be apprehended and brought to trial for the same) be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Advertising
reward for
return of stolen
property, etc.

62. Whosoever shall publicly advertise a reward for the return of any property whatsoever which shall have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawn-broker or other person who may have bought or advanced money, by way of loan, upon any property stolen or lost, the money so paid or advanced or any other sum of money or reward for the return of such property, or if any person shall print or publish any such advertisement, in any of the above cases every such person shall forfeit the sum of fifty pounds for every such offence to any person who will sue for the same by action of debt to be recovered with full costs of suit.

Addition of
counts in
indictment.

63. In every indictment for feloniously stealing property, it shall be lawful to add a count or counts for feloniously receiving the same property knowing it to have been stolen; and in every indictment for feloniously receiving property knowing it to have been stolen it shall be lawful to add a count or counts for feloniously stealing the same property; and where any such indictment shall have been preferred against any person, the Attorney-General or other prosecutor shall not be put to his election; but it shall be lawful for the jury who shall try the same to find a verdict of guilty either of stealing the property or of receiving it knowing it to have been stolen; and if such indictment shall have been preferred against two or more persons, it shall be lawful for the jury who shall try the same to find all or any of the said persons guilty either of stealing the property, or of receiving it knowing it to have been stolen, or to find any one or more of the said persons guilty of stealing the property, and any other or others of them guilty of receiving it knowing it to have been stolen.

No. 16.

AN ORDINANCE relating to malicious injuries to property.

1. This Ordinance may be cited as the Malicious Injury Short title
to Property Ordinance.

2. Whosoever unlawfully and maliciously sets fire to any Burning
church, chapel, meeting-house, or other place of Divine churches, &c.
worship, shall be guilty of felony, and being convicted
thereof, shall be liable to be imprisoned with or without
hard labour for life or for any term of years.

3. Whosoever unlawfully and maliciously sets fire to any Burning
dwelling-house, any person being therein, shall be guilty of houses, any
felony, and being convicted thereof, shall be liable to be person being
imprisoned with or without hard labour for life or for any therein.
term of years.

4. Whosoever unlawfully and maliciously sets fire to any Burning
house, stable, coach-house, out-house, warehouse, office, houses, &c.
store, shop, mill-house, boiling-house, curing-house, still-
house, store-house, megass-house, cacao-house, barn, gran-
ary, hovel, shed, or fold, or to any building or erection used
in the cultivation, collection or manufacture of sugar, cacao,
coffee, or other produce, or in carrying on any trade or
manufacture or any branch thereof, with intent thereby to
injure or defraud any person, shall be guilty of felony, and
being convicted thereof, shall be liable to be imprisoned
with or without hard labour for life or for any term of years.

5. Whosoever unlawfully and maliciously sets fire to any Setting fire to
building, other than such as are hereinbefore mentioned, public
belonging to the King, or to any Town, Borough, Ward, buildings.
Ward Union, parish or place, or belonging to any Court,
or devoted or dedicated to public use or ornament, or
erected or maintained by public subscription or contribution,
shall be guilty of felony, and being convicted thereof, shall
be liable to be imprisoned with or without hard labour for
life or for any term of years.

6. Whosoever unlawfully and maliciously sets fire to any Setting fire to
building whatsoever not hereinbefore specified, shall be other
guilty of felony, and being convicted thereof, shall be liable buildings.
to be imprisoned with or without hard labour for any term
not exceeding ten years.

Setting fire to
material in
buildings.

7. Whosoever unlawfully and maliciously sets fire to any matter or thing, being in, against, or under any building, under such circumstances that if the building were thereby set fire to the offence would amount to felony, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding ten years.

Attempting to
set fire to
buildings, &c.

8. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to any building, or any matter or thing in the last preceding section mentioned, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding ten years.

Placing
inflammable
materials with
intent to set
fire.

9. Whosoever places in, against or under any building any petroleum or any mineral, vegetable or other oil, or any hay, straw, cotton-waste or other combustible or inflammable material, with intent to set fire to such building under such circumstances that if fire were set to the building the offender would be guilty of felony, or to render such building liable to take fire under such circumstances as aforesaid, shall be guilty of a misdemeanour and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding five years.

Conspiracy to
set fire.

10. All persons who conspire, confederate and agree to set fire to any building under such circumstances that the actual setting of such fire would be felony, and whosoever solicits, encourages, persuades or endeavours to persuade, or proposes to any person to set fire to any building under such circumstances as aforesaid, shall be guilty of a misdemeanour and being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding five years.

Maliciously
blowing up
houses, any
one being
therein.

11. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or any other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling house, any person being therein, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term of years, with or without hard labour.

Attempting to

12. Whosoever shall unlawfully and maliciously place or

throw in, into, upon, against or near any building or vessel blow up building.
any gunpowder or other explosive substance with intent to destroy or damage any building or vessel or any machinery, working tools, fixtures, goods or chattels, shall, whether or not any explosion shall take place and whether or not any damage be effected to any building, vessel, machinery, working tools, fixtures, goods or chattels, be guilty of felony and on conviction shall be liable to be imprisoned for life or for any term of years, with or without hard labour.

13. If any persons riotously or tumultuously assembled together unlawfully and with force demolish or pull down or destroy, or begin to demolish, pull down or destroy any of the following particulars (that is to say) any church or chapel, or any building appropriated for religious worship, whether such religion be Christian or not, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, boiling-house, curing-house, still-house, store-house, megass-house, cocoa-house, barn, granary, shed, hovel, or fold, or any building or erection used in the farming or cultivating of any land or estate, or in carrying on any trade or manufacture or any branch thereof, or any building belonging to the King, or to any City, Borough or Town, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture or in any branch thereof, or upon or for the purposes of any railway, or any steam engine or other engine, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term of years with or without hard labour. Rioters destroying church, building, machinery, &c.

14. If any persons riotously or tumultuously assembled together unlawfully and with force injure or damage any of the particulars aforesaid, every such offender shall be guilty of a misdemeanour, and liable to be imprisoned for any term not exceeding seven years with or without hard labour: Provided that if upon the trial of any person for any felony in the last preceding section mentioned the jury are not satisfied that such person is guilty thereof, but are satisfied that he is guilty of any misdemeanour in this section mentioned, then the jury may find him guilty of such misdemeanour and he may be punished accordingly. Rioters injuring building, machinery, &c.

15. Whosoever, being possessed of any dwelling-house Tenants

injuring
houses.

or other building, or part of any dwelling-house or other building held for any term of years or other less term, or at will, or held over after the termination of any tenancy, unlawfully or maliciously pulls down or demolishes, or begins to pull down or demolish the same or any part thereof, or unlawfully and maliciously pulls down or severs from the freehold any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years with or without hard labour.

Destroying
machines.

16. Whosoever unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy or to render useless, any machine or engine, whether fixed or moveable, used or intended to be used for any agricultural operation, or any machine or engine, or any tool or implement, whether fixed or moveable, prepared for or employed in the manufacture of sugar, cocoa, or coffee, or any other manufacture, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years with or without hard labour and, if a male under the age of sixteen years, with or without corporal punishment.

Setting fire to
crops.

17. Whosoever shall unlawfully and maliciously set fire to any crop of sugar-canes whether standing or cut down, or to any crop of hay, grass, corn, grain, or to any cultivated vegetable produce whether standing or cut down, or to any stack or stacked heap of straw, trash, ground-cane, megass, cane-tops, corn-stalks, wood, or other matter used for fuel, or to any plantation of cocoa, coffee or other trees, or to any part of any wood, coppice, or plantation of trees or valuable plants, or ground produce wheresoever the same may be growing, or to any trash reserved or placed on any land in course of cultivation, shall be guilty of felony, and shall be liable on conviction thereof to be imprisoned either with or without hard labour for any term not exceeding ten years.

Setting fire to
hay, straw, or
implements.

18. Whosoever shall unlawfully and maliciously set fire to any hay, straw, trash, megass, cane-tops or corn-stalks, or to any coal, wood, charcoal, or other substance whatsoever, or to any implement of husbandry being in any building whatsoever with intent thereby to set fire to such building and to injure or defraud shall be guilty of felony, and on conviction thereof shall be imprisoned either with or without hard labour for any term not exceeding ten years.

19. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any building or vessel whatsoever or to any growing crop, or to any vegetable produce whatsoever, whether standing or cut down, or to any hay, straw, trash, megass or other matter used for fuel, or to any trash reserved or placed on any land in course of cultivation, with such intent that if the offence were complete, the offender would be guilty of felony, shall, although such building, vessel, growing crop, vegetable produce, hay, straw, trash, megass or other matter be not actually set on fire, be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years with or without hard labour.

20. If any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub or any underwood respectively growing in any park, pleasure-ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house, every such offender, in case the amount of the injury done shall exceed the sum of one pound sterling, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years with or without hard labour; and if any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, shrub, or any underwood respectively growing elsewhere than in any of the situations hereinbefore mentioned, every such offender, in case the amount of the injury done shall exceed the sum of five pounds sterling, shall be guilty of felony, and being convicted thereof, shall be liable to such punishment as the Court may award for the felony hereinbefore last mentioned.

21. If any person shall unlawfully and maliciously break down or cut down any sea-bank, or sea-wall, or the bank or wall of any river, canal or marsh, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall unlawfully and maliciously throw down, level, or otherwise destroy any lock, sluice, or flood-gate, or other work on any navigable river or canal, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years with or without hard labour; and if any person shall unlawfully and maliciously cut off, draw up, or remove

any piles, chalk, or other materials fixed in the ground and used for securing any sea-bank or sea-wall, or the bank or wall of any river, canal or marsh, or shall unlawfully and maliciously open or draw up any flood-gate, or do any other injury or mischief to any navigable river or canal with intent, and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Breaking down
dam of fish-
pond or mill-
dam.

22. If any person shall unlawfully and maliciously break down or otherwise destroy the dam of any fish-pond or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water with intent thereby to destroy any of the fish therein, or shall unlawfully and maliciously break down or otherwise destroy the dam of any mill-pond, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour.

Injuring public
bridges.

23. Whosoever shall unlawfully and maliciously pull down or in any wise destroy any public bridge, or do any injury with intent, and so as thereby to render such bridge or any part thereof dangerous or impassable, shall be guilty of felony and being convicted thereof, shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

Destroying
books, works
of art, &c.

24. Whosoever unlawfully and maliciously destroys or damages any book, manuscript, picture, statue, bust or vase or any other article or thing kept for the purpose of art, science or literature, or as an object of curiosity, in any museum, gallery, cabinet, library or other repository, which museum, gallery, cabinet, library or other repository is either at all times or from time to time open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof or by the payment of money before entering the same, or any picture, statue, monument or other memorial of the dead,

painted glass or other ornament or work of art in any church or chapel or in any building appropriated for religious worship, whether such religion be Christian or not, or in any building belonging to the King or to any City, Borough or Town, or in any street, square, church-yard, burial-ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing or fence surrounding such statue or monument, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding six months with or without hard labour, and if a male under the age of sixteen years with or without corporal punishment: Provided that nothing in this section shall be deemed to affect the right of any person to recover by action at law, damages for the injury so committed.

25. If any person shall unlawfully and maliciously kill, maim, or wound any cattle, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Killing or maiming cattle.

26. Whosoever shall unlawfully and maliciously set fire to, cast away or in anywise destroy any ship or vessel, either with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term not less than two years, with or without hard labour.

Setting fire to or destroying ships, with intent to murder.

27. Whosoever shall unlawfully and maliciously set fire to, or in anywise destroy any ship or vessel, whether the same be complete, or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away or in anywise destroy any ship or vessel with intent thereby to prejudice any owner or part owner of such ship or vessel or of any goods on board the same, or any person that has underwritten, or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, nor less than one year, with or without hard labour.

Setting fire to ships with intent to destroy.

28. Whosoever shall unlawfully and maliciously damage otherwise than by fire, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same,

Damaging ships otherwise than by fire.

or to render the same useless, shall be guilty of felony, and being convicted thereof, shall be liable to any such punishment as last aforesaid.

Shewing false
lights.

29. Whosoever shall unlawfully exhibit any false light or signal, with intent to bring any ship or vessel into danger, and shall unlawfully or maliciously do anything tending to the immediate loss or destruction of any ship or vessel in distress, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term not less than two years with or without hard labour.

Destroying
wrecks or
goods.

30. Whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress or wrecked, stranded or cast on shore, or any goods, merchandize or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years nor less than one year.

Sending letter
threatening to
destroy
building, &c.

31. Whosoever shall knowingly send, deliver, or utter any letter or writing threatening to burn or destroy any building, or any growing crop, or any megass or trash, or shall knowingly procure, counsel, aid or abet the commission of any such offence shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Making or
having
explosive
substances for
committing
offence.

32. Whosoever shall knowingly have in his possession, or make or manufacture any gunpowder, or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit any offence against this Ordinance, shall be guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Power to
search and
arrest
suspected
persons.

33. Where there is reasonable cause to suspect that any combustible or inflammable material is concealed or placed in, against or under any house, building or other place contrary to this Ordinance it shall be lawful for any Justice of the Peace by warrant under his hand to authorise all Constables with such assistance as may be necessary to enter and search at any time of the day or night such house, building or other place and any adjacent premises; and if

any combustible or inflammable material which there is reasonable cause to suspect to have been so concealed or placed is found, to convey the same forthwith before any Stipendiary Justice or to guard the same on the spot or in some place of security subject to the orders of any Stipendiary Justice, and to apprehend and convey before any Stipendiary Justice the person or persons in, against or under whose house, building or place such material is found, if any Constable acting under any such warrant as aforesaid has reasonable cause to suspect any such person to have been privy to the introduction of such material, and also any other person found in or near such house, building or place who appears to have been privy to the concealment or placing of such material.

34. If any person shall unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated plant or root used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land open or enclosed, not being a garden or orchard, or nursery-ground, every such offender being convicted thereof before any Stipendiary Justice, shall at the discretion of the said Justice, either be committed to the Royal Gaol, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding one calendar month, or else shall forfeit and pay over and above the amount of the injury done such sum of money not exceeding twenty shillings sterling, as to the Justice shall seem meet, and in default of payment thereof, together with the costs (if ordered), shall be committed as aforesaid for any term not exceeding one calendar month, unless payment be sooner made; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof before any Stipendiary Justice, every such offender shall be committed to the Royal Gaol, there to be kept to hard labour for such term not exceeding three calendar months, as the Justice shall think fit.

Destroying
vegetable
productions
not in gardens.

35. Any constable may take into custody, without warrant, any person whom he finds lying or loitering in any highway, yard, plantation or other place, during the night, and whom he has good cause to suspect of having committed or being about to commit any offence against this Ordinance, and he shall take such person as soon as reasonably may be before a Justice of the Peace to be dealt with according to law.

Persons loiter-
ing at night,
and suspected
may be appre-
hended.

Malice against owner not essential to offence.

36. Every punishment and forfeiture by this Ordinance imposed on any person maliciously committing any offence, shall equally apply and be in force, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

Ordinance to apply to persons in possession of property injured.

37. Every provision of this Ordinance making any act punishable in consequence of an intent to injure or defraud shall apply to every person who, with intent to injure or defraud any other person does any such act, although the offender is in possession of the property against or in respect of which such act is done.

No. 17.

AN ORDINANCE to provide for the punishment of Forgery.

1. This Ordinance may be cited as the Forgery Ordinance. Short title.

2. If any person shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any note or bill of exchange of the Governor and Company of the Bank of England, or of the Colonial Bank, or of any other bank, now or hereafter to be established by lawful authority in this Colony, commonly called a bank note, bank bill of exchange, or bank post bill, or any indorsement on, or assignment of any bank note, bank bill of exchange, or bank post bill whatsoever, or any deed, will, testament, codicil or testamentary writing, or any bill of exchange or any promissory note for the payment of money, or any indorsement on, or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant or order for the payment of money, with intent in any of the cases aforesaid to defraud any person whatsoever, every such offender shall be guilty of felony, and being convicted of any such offence, shall be liable to be imprisoned for life or for any term, with or without hard labour.

Forging bank notes, etc., or warrant or order for payment of money, &c.

3. If any person shall forge or alter, or shall offer, utter, or dispose of, knowing the same to be forged or altered, any deed, bond, or writing obligatory, or any certificate by the Registrar-General or his lawful deputy, of the entry or registry of any deed, will or testament, in the Registrar-General's Office, or any receipt or certificate of the Receiver-General or his lawful deputy, or of the Registrar of the Supreme Court, or of any officer of His Majesty's Customs, or any acquittance or receipt, either for money or goods, or any accountable receipt either for money or goods, or for any note, bill, or other security for payment of money, or any warrant, order or request for the delivery or transfer of any goods, or for the delivery of any note, bill, or other security for payment of money, with intent to defraud any person whatsoever, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term, with or without hard labour.

Forgery of deeds, &c., or certificates of Registrar or Officer of Customs, &c.

False entries
in registers of
baptism,
marriage, or
burial.

4. If any person shall knowingly and wilfully insert or cause or permit to be inserted, in any register of baptisms, marriages or burials which has been, or shall be made or kept by the rector, curate or officiating minister of any parish or church, or by any minister or ministers of any Roman Catholic church or chapel, or by any Dissenting minister of any chapel within this Colony, any false entry of any matter relating to any baptism, marriage, or burial, or shall forge or alter in any such register, any entry of any matter relating to any baptism, marriage, or burial, or shall utter any writing as and for a copy of an entry in any such register of any matter relating to any baptism, marriage, or burial, knowing such writing to be false, forged or altered, or if any person shall alter any entry in any such register of any matter relating to any baptism, marriage or burial, knowing such entry to be false, forged or altered, or shall utter any copy of such entry, knowing such entry to be false, forged or altered, or shall wilfully destroy, deface or injure, or cause or permit to be defaced, destroyed or injured, any such register, or any part thereof, or shall forge or alter, or shall utter, knowing the same to be forged or altered, any license of marriage, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term, with or without hard labour.

Clergy cor-
recting errors.

5. No rector, curate or officiating minister of any parish, or Roman Catholic minister or Dissenting minister of any chapel within this Colony, who shall discover any error in the form or substance of the entry in the register of any baptism, marriage, or burial respectively by him solemnized, shall be liable to any of the penalties herein mentioned, if he shall within one calendar month after the discovery of such error, in the presence of the parent or parents of the child baptized, or of the parties married, or in the presence of two persons, who shall have attended at such burial, or in the case of the death or absence of the respective parties aforesaid, then in the presence of the churchwarden, or of some other rector, curate, or Roman Catholic minister, or officiating minister, or Dissenting minister, correct the entry which shall have been found erroneous according to the truth of the case by entry in the margin of the register wherein such erroneous entry shall have been made without any alteration or obliteration of the original entry, and shall sign such entry in the margin, and add to such signature

the day of the month and year when such correction shall be made, and such correction and signature shall be attested by the parties in whose presence the same are directed to be made as aforesaid.

6. If any person shall without lawful excuse, the proof whereof shall lie upon the party accused, purchase or receive from any other person, or have in his custody or possession any forged bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same respectively to be forged, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years with or without hard labour.

Having forged notes in possession without lawful excuse.

7. Where the committing any offence with intent to defraud any person whatsoever is made punishable by this Ordinance, in every such case, the word person shall throughout this Ordinance be deemed to include His Majesty or any body corporate, or any company or society of persons not incorporated, or any person or number of persons whatsoever, who may be intended to be defrauded by such offender, whether such body corporate, company, society, person or number of persons shall reside, or carry on business in this Colony or elsewhere, in any place or country, whether within the dominions of His Majesty or not, and it shall be sufficient in any indictment to name one person only of such company, society or number of persons, and to allege the offence to have been committed with intent to defraud the person so named, and another or others, as the case may be.

Construction of Ordinance.

No. 18.

AN ORDINANCE for the punishment of offences relating to the Coin.

- Short title.** 1. This Ordinance may be cited as the Coin Ordinance.
- Interpretation.** 2. The expression "copper coin" in this Ordinance includes any coin of bronze or mixed metal.

Where the King's current gold coin, or the King's current gold or silver coin, or the King's current gold, silver, or copper coin is mentioned in this Ordinance, the same shall be deemed to include and intend any gold coin, or any gold or silver coin, or any gold, silver, or copper coin, respectively, coined in any of His Majesty's mints, and lawfully current in this Colony or in any of His Majesty's dominions.

Any of the King's current coin, or any coin of any foreign prince, state, or country, which shall have been gilt, silvered, washed, coloured, or cased over, or in any manner altered, so as to resemble or be apparently intended to resemble or pass for any of the King's current coin, or any coin of any foreign prince, state, or country, of a higher denomination, shall be deemed and taken to be a counterfeit coin within the meaning of those parts of this Ordinance wherein mention is made of false or counterfeit coin resembling or apparently intended to resemble or pass for the King's current gold, silver, or copper coin, or the gold, silver or copper coin of any foreign prince, state or country.

Where the having any matter or thing in the custody or possession of any person is in this Ordinance expressed to be an offence, if any person shall have any such matter or thing in his personal custody or possession or shall knowingly and wilfully have any such matter or thing in any dwelling-house or in any building, field, or other place, open or enclosed, whether belonging to or occupied by himself or not, and whether such matter or thing shall be so had for his own use or benefit, or for that of another, every such person shall be deemed and taken to have such matter or thing in his custody and possession within the meaning of this Ordinance.

- Counterfeiting current coin.** 3. If any person shall falsely make or counterfeit any coin resembling or apparently intended to resemble or pass for any of the King's current gold or silver or copper coin or the

gold or silver or copper coin of any foreign prince, state, or country, ordered or permitted by lawful authority to be current in this Colony, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life or for any term of years, with or without hard labour.

Every such offence shall be deemed to be complete, although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

4. Whosoever shall make or counterfeit any kind of coin not the proper coin of the Realm, nor permitted to be current in this Colony as aforesaid, but resembling or made with intent to resemble or look like any gold, silver, or copper coin of any foreign prince, state, or country, or pass for any such foreign coin, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for life or for any term of years, with or without hard labour.

Counterfeiting
foreign coin.

5. If any person shall gild silver or copper, or shall, with any wash or material capable of producing the colour of gold, or of silver, or of copper, wash, colour or case over any coin whatsoever resembling or apparently intended to resemble or pass for any of the King's current gold, silver or copper coin, or any gold, silver, or copper coin of any foreign prince, state or country, whether ordered or permitted to be current in this Colony or not; or if any person shall gild silver or copper, or with any wash or material capable of producing the colour of gold, or of silver, or of copper, wash, colour, or case over any piece of silver, or copper, or of coarse gold, or coarse silver, or of any metal, or mixture of metals, or mixture of metal or metals with any other substance or substances, being of a fit size and figure to be coined, and with the intent that the same shall be coined into false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's gold, silver, or copper coin, or any gold, silver, or copper coin of any foreign prince, state, or country, whether ordered or permitted to be current in this Colony or not; or if any person shall gild, or with any wash, colour, or materials capable of producing the colour of gold, wash, colour, or case over any of the King's current silver coin, or any such silver coin of any foreign prince, state, or country as aforesaid, or file, or in any manner alter any such coin with intent to make the same resemble

Colouring
counterfeit
coin or pieces
of metal.

Colouring or
altering
genuine coin.

or pass for any of the King's gold coin, or any such gold coin of any foreign prince, state, or country as aforesaid; or if any person shall gild or silver, or shall with any wash or materials capable of producing the colour of gold or silver, wash, colour, or case over any of the King's copper coin, or the copper coin of any such foreign prince, state, or country as aforesaid, with intent to make the same resemble or pass for any of the King's gold or silver coin, or any such gold or silver coin of any foreign prince, state, or country as aforesaid, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Washing,
casing over,
&c., any
current gold or
silver coin.

6. Whosoever shall by any means whatsoever wash, case over or colour any coin whatsoever resembling or apparently intended to resemble or pass for any of the King's current gold or silver coin, or shall by any means whatsoever wash, case over or colour any piece of silver or copper or of coarse gold or coarse silver, or of any metal or mixture of metals respectively being of a fit size and figure to be coined and with intent that the same shall be coined into false and counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current gold or silver coin, or shall by any means whatsoever wash, case over or colour any of the King's current silver coin with intent to make the same resemble or pass for any of the King's current gold coin or shall by any means whatsoever wash, case over or colour any of the King's current copper coin, with intent to make the same resemble or pass for any of the King's current gold or silver coin, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years with or without hard labour.

Impairing,
&c., current
coin.

7. Whosoever shall impair, diminish or lighten any of the King's current gold, silver, or copper coin, or the gold, silver or copper coin of any foreign prince, state, or country, whether ordered or permitted to be current in this Colony or not, with intent that the coin so impaired, diminished or lightened may pass for the King's current gold, silver, or copper coin, or any such coin of any foreign prince, state or country as aforesaid, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years with or without hard labour.

Having in
possession
filings, &c.

8. Whosoever shall unlawfully have in his custody or possession any filings or clippings, or any gold or silver

bullion, or any gold or silver in dust, solution or otherwise, which shall have been produced or obtained by impairing, diminishing, or lightening any of the King's current gold or silver coin, knowing the same to have been so produced or obtained, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years with or without hard labour.

9. Whosoever shall deface any of the King's current gold, silver, or copper coin, or the gold, silver, or copper coin of any foreign state, prince, or country, whether ordered or permitted to be current in this Colony or not, by stamping or otherwise putting thereon any names, or words, or letters, or by cutting any marks on the same, or by perforating the same, whether such coin shall or shall not be thereby diminished or lightened, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding one year with or without hard labour.

Defacement of coin.

10. Where any coin shall be tendered as the King's current gold, silver, or copper coin, or the gold, silver, or copper coin of any foreign state, prince, or country, ordered or permitted by lawful authority to be current in this Colony, to any person who shall suspect the same to be diminished otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for such person to cut, break, bend or deface such coin, and if any coin so cut, broken, bent, or defaced shall appear to be diminished otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same shall be of due weight, and shall appear to be lawful coin, the person cutting, breaking, bending, or defacing the same is hereby required to receive the same at the rate it was coined for, and if any dispute shall arise whether the coin so cut, broken, bent, or defaced be diminished in manner aforesaid or counterfeit, it shall be heard and finally determined in a summary manner by any Stipendiary Justice, who is hereby empowered to examine upon oath as well the parties as any other person, in order to the decision of such dispute, and the Receiver-General of this Colony is hereby required to cut, break, or deface, or cause to be cut, broken, or defaced every piece of counterfeit or unlawfully diminished gold or silver coin which shall be tendered at his office in payment of any part of His Majesty's revenue.

Suspected coins, when tendered in payment may be destroyed.

Buying or
selling
counterfeit
coin under
face value.

Importing
counterfeit
coin.

Exporting
counterfeit
coin.

Uttering
counterfeit
coin.

11. If any person shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current gold, silver, or copper coin, or any gold, silver, or copper coin of any foreign prince, state, or country, ordered or permitted to be current in this Colony as aforesaid, at or for a lower rate or value than the same would be worth if it were the true coin which its denomination imports, or which it was coined or counterfeited for; or if any person shall import into this Colony from beyond the seas any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's gold, silver, or copper coin, or any gold, silver, or copper coin of any foreign prince, state, or country, whether the same be ordered or permitted to be current in this Colony or not, knowing the same to be false or counterfeit, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term of years with or without hard labour.

12. Whosoever without lawful authority or excuse (the proof whereof shall be on the party accused) shall export or put on board any ship, vessel, or boat, for the purpose of being exported from this Colony, any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current coin knowing the same to be false and counterfeit shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with or without hard labour.

13. If any person shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current gold, silver, or copper coin, or the gold, silver or copper coin of any foreign prince, state, or country, whether the same be ordered or permitted to be current in this Colony or not, knowing the same to be false or counterfeit, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding one year with or without hard labour; and if any person shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current coin, or any such coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, and such person shall, at the time of

such tendering, uttering, or putting off, have in his possession, besides the false or counterfeit coin so tendered, uttered, or put off one or more piece or pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current coin, or any such coin of any foreign prince, state, or country; or shall, either on the day of such tendering, uttering, or putting off, or within the space of ten days then next ensuing, tender, utter, or put off any more or other false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current coin, or any coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years with or without hard labour; and if any person who shall have been convicted of any of the misdemeanours hereinbefore enumerated, shall afterwards commit any of the said misdemeanours, such person shall be deemed guilty of felony, and on conviction thereof shall be liable to be imprisoned for any term of years, with or without hard labour.

14. Whosoever shall, with intent to defraud, tender, utter, or put off, as or for any of the King's current gold, silver, or copper coin or any coin of any foreign prince, state, or country, any medal or piece of metal or mixed metals resembling in size, figure and colour the coin as or for which the same shall be so tendered, uttered, or put off, such medal, or piece of metal, or mixed metals so tendered, uttered or put off, being of less value than the coin as or for which the same shall be so tendered, uttered, or put off, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years with or without hard labour.

Uttering medals as coin.

15. If any person shall have in his custody or possession three or more pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current gold, silver or copper coin, or any gold, silver, or copper coin of any foreign prince, state or country, whether the same be ordered or permitted to be current in this Colony or not, knowing the same to be false or counterfeit, and with intent to utter or put off the same, every such offender shall be guilty of a misdemeanour, and being convicted thereof, shall be liable to be imprisoned for any term

Having three or more pieces of counterfeit coin in possession with intent, &c.

not exceeding three years with or without hard labour; and if any person so convicted shall afterwards commit the like misdemeanour, such person shall be deemed guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term of years, with or without hard labour.

Falsely making or counterfeiting coin—when deemed to be complete.

16. Every offence of falsely making or counterfeiting any coin, or of buying, selling, receiving, paying, tendering, uttering, or putting off, or of offering to buy, sell, receive, pay, utter, or put off, any false or counterfeit coin, against the provisions of this Ordinance, shall be deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered, or put off, or offered to be bought, sold, received, paid, uttered, or put off, shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

Making, mending, or having in possession any coining tools.

17. If any person shall knowingly and without lawful authority (the proof of which authority shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly and without lawful excuse (the proof of which excuse shall lie on the party accused) have in his custody or possession any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make or impress, or which shall be intended to make or impress the figure, stamp, or apparent resemblance of both or either of the sides of any of the King's current gold, silver, or copper coin, or any gold, silver, or copper coin of any foreign prince, state, or country, whether ordered or permitted to be current in this Colony or not; or any part or parts of both or either of such sides; or if any person shall, without lawful authority (the proof of which authority shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall without lawful excuse (the proof of which shall lie on the party accused) have in his custody or possession any edger, edging tool, collar, instrument, or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any of the King's current gold, silver, or copper coin, or of any such gold, silver, or copper coin of any foreign prince, state, or country as aforesaid, such person knowing the same to be so adapted and intended as aforesaid; or if any person shall without lawful authority, to be proved as aforesaid,

make or mend, or begin or proceed to make or mend, or buy or sell, or shall without lawful excuse, to be proved as aforesaid, have in his custody or possession any press for coinage, or any cutting engine for cutting by force of a screw, or of any other contrivance, round blanks out of gold, silver, or other metal, such person knowing such press to be a press for coinage, or knowing such engine to have been used or to be intended to be used for or in order to the counterfeiting of any of the King's gold, silver, or copper coin, or any such gold, silver, or copper coin of any foreign prince, state, or country, as aforesaid, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term of years, with or without hard labour.

18. If any person shall find or discover in any place whatever, or in the possession of any person having the same without lawful excuse, any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the King's current gold, silver, or copper coin, or the gold, silver, or copper coin of any foreign prince, state, or country, whether the same be ordered or permitted to be current in this Colony or not, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, it shall be lawful for the person so finding or discovering, and he is hereby required to seize the same and to carry the same forthwith before some Justice of the Peace; and where it shall be proved, on the oath of a credible witness, before any Justice of the Peace, that there is reasonable cause to suspect that any person has been concerned in counterfeiting any such gold, silver, or copper coin, or has in his custody or possession any such counterfeit coin, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, it shall be lawful for such Justice, by warrant under his hand, to cause any place whatsoever belonging to or in the occupation or under the control of such suspected person to be searched, either in the day or in the night; and if any such counterfeit coin, or any such instrument, tool, or engine, shall be found in any place so searched, to cause the same to be seized and carried forthwith before the said Justice, or some other Justice of the Peace; and whenever any such counterfeit coin, or any such instrument, tool, or engine as aforesaid, shall in any case whatever be seized and carried before a Justice of the Peace, he shall cause the same to be

False or counterfeit coin, instruments, &c., to be seized, and party found with same, to be taken before a Justice.

Search warrant.

secured, for the purpose of being produced in evidence against any person who may be prosecuted for any offence against this Ordinance ; and all counterfeit coin, and all instruments, tools, and engines adapted and intended for the counterfeiting of coin, after they shall have been produced in evidence, or where they shall have been seized and shall not be required to be produced in evidence, shall forthwith be delivered up to the Attorney-General of the Colony, or to any person authorized by him to receive the same.

Defaced coin
not legal
tender.

19. No tender of payment in money in any gold, silver, or copper coin so defaced as in section 9 mentioned shall be allowed to be a legal tender, and whosoever shall knowingly and wilfully tender, utter, or put off, any coin so defaced shall on conviction thereof before any Stipendiary Justice be liable to forfeit and pay any sum not exceeding five pounds, or to be imprisoned, with hard labour, for any term not exceeding three months.

Arrest.

20. It shall be lawful for any person whatsoever to apprehend any person who shall be found committing any offence against this Ordinance and to convey or deliver him to some peace officer, constable, or officer of police, in order to his being conveyed as soon as reasonably may be before a Stipendiary Justice to be dealt with according to law.

No. 19.

AN ORDINANCE relating to Riots and unlawful and tumultuous assemblies.

1. This Ordinance may be cited as the Riot Ordinance. Short title.

2. In this Ordinance the terms "affray," "unlawful assembly," "rout" and "riot," shall respectively have the same meanings as they have according to the Law of England. Interpretation.

3. Whosoever takes part in an affray shall be guilty of a misdemeanour and on conviction thereof may be fined in any sum not exceeding fifty pounds, or imprisoned, with or without hard labour, for any term not exceeding two years, or, subject to the limitations aforesaid, be punished both by fine and imprisonment. Affray.

4. Whosoever takes part in an unlawful assembly or in a rout shall be guilty of a misdemeanour, and on conviction thereof may be fined in any sum not exceeding fifty pounds, or imprisoned, with or without hard labour, for any term not exceeding one year, or subject to the limitations aforesaid, be punished both by fine and imprisonment. Unlawful assembly and rout.

5. Whosoever takes part in a riot may on conviction be fined in any sum not exceeding one hundred pounds or imprisoned, with or without hard labour, for any term not exceeding two years, or, subject to the limitations aforesaid, be punished both by fine and imprisonment. Riot.

6. Whosoever takes part in any unlawful assembly, rout or riot, knowing that any one taking part therein is or intended to be armed with any weapon of offence, shall be guilty of a misdemeanour, and on conviction may be fined in any sum not exceeding two hundred pounds, or imprisoned, with or without hard labour, for any term not exceeding three years, or, subject to the limitations aforesaid, may be punished both by fine and imprisonment. Taking part in armed riot, &c.

7. Whosoever being armed with any weapon of offence takes part in any unlawful assembly, rout or riot, shall be guilty of a misdemeanour, and on conviction thereof may be imprisoned, with or without hard labour, for any term not exceeding five years. Being armed and taking part in riot, &c.

8. Where any person is convicted before the Supreme Court of any offence involving the taking part in a riot, the Court Supervision of police.

may, if it thinks fit, in addition to any other punishment authorized by this Ordinance, order that the offender shall, from and after the expiration of his term of imprisonment, be under the supervision of the Police for any term not exceeding seven years.

Power to
convict
summarily.

9. Where any person charged with any offence punishable under this Ordinance is brought before a Stipendiary Justice of the Peace for examination and such Justice is satisfied that the person charged has committed an offence punishable under this Ordinance but is of opinion that a punishment not exceeding six months imprisonment will be sufficient, he may, with the consent of the person charged, dispose of the charge summarily, and order the person charged to be imprisoned, with or without hard labour, for any term not exceeding six months.

Twelve
persons or
more unlaw-
fully assem-
bled, and not
dispersing
after being
commanded by
a Magistrate,
by Proclama-
tion, to be
adjudged
felons.

10. If any persons to the number of twelve or more, being unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace, and being required or commanded by one or more Magistrate or Magistrates, by Proclamation under the King's name, in the form hereinafter directed, to disperse themselves and peaceably to depart to their habitations, or to their lawful business, shall, to the number of twelve or more (notwithstanding such Proclamation made), unlawfully, riotously and tumultuously remain or continue together for the space of one hour after such command or request made by Proclamation, then such continuing together to the number of twelve or more after such command or request made by Proclamation shall be adjudged felony, and every person so offending shall be adjudged a felon, and on conviction shall be liable to be imprisoned for any term not exceeding four years with or without hard labour.

How Procla-
mation to be
made.

11. The order and form of any Proclamation made under this Ordinance shall be as follows, that is to say, the Magistrate shall appear among the said rioters, or as near to them as he can safely come, and with a loud voice command, or cause to be commanded, silence to be kept while Proclamation is making and after that shall openly and with a loud voice make or cause to be made Proclamation of these words or like in effect :

“Our Sovereign Lord the King charges and commands all persons being assembled, immediately to disperse themselves, and peaceably to depart to their houses or to their lawful business, upon the pains contained in the Ordinance in such case provided.—*God save the King.*”

And all such Magistrates, within the limits of their respective jurisdictions, are hereby authorized, empowered, and required, on notice or knowledge of any such unlawful, riotous, and tumultuous assembly, to resort to the place where such unlawful, riotous, and tumultuous assembly shall be of persons to the number of twelve or more, and there to make or cause to be made Proclamation in manner aforesaid.

12. If any such persons so unlawfully, riotously and tumultuously assembled, or twelve or more of them, after Proclamation made in manner aforesaid, shall continue together and not disperse themselves within one hour, then it shall be lawful to and for every Magistrate having jurisdiction where such assembly shall be, and to and for such other person or persons as shall be commanded to be assisting unto any such Magistrate, who is hereby authorized and empowered to command all His Majesty's subjects of age and ability to be assisting to him therein, to seize and apprehend, and they are hereby required to seize and apprehend such persons so unlawfully, riotously and tumultuously continuing together after Proclamation made as aforesaid, and forthwith to carry the persons so apprehended before one or more Magistrate or Magistrates for the district or place where such persons shall be so apprehended, in order to their being proceeded against for such their offences according to law; and if the persons so unlawfully, riotously and tumultuously assembled, or any of them, shall happen to be killed, maimed, or hurt in the dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, by reason of their resisting the persons so dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, then every such Magistrate, and all and singular the persons aiding or assisting them or any of them, shall be free, discharged and indemnified, as well against the King's Majesty, his heirs and successors, as against all and every other person or persons, of, for, or concerning the killing, maiming, or hurting of any such person or persons so unlawfully, riotously and tumultuously assembled, as shall happen to be so killed, maimed, or hurt as aforesaid.

Persons so assembled, and not dispersing within one hour, to be seized.

And if they make resistance, the persons seizing them to be indemnified.

13. If any person or persons do or shall with force and arms wilfully and knowingly oppose, obstruct or in any manner wilfully and knowingly let, hinder, or hurt any person that shall begin to proclaim, or go to proclaim, according to the Proclamation hereby directed to be made, whereby such

Opposing the making such Proclamation.

Proclamation shall not be made, the person so offending shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years with or without hard labour; and every such person or persons so being unlawfully, riotously and tumultuously assembled together to the number of twelve as aforesaid, or more, to whom Proclamation should or ought to have been made if the same had not been hindered as aforesaid, shall likewise, in case they or any of them, to the number of twelve or more, shall continue together and not disperse themselves within one hour after such let or hindrance so made, having knowledge of such let or hindrance so made, be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years with or without hard labour.

Limitation. **14.** No person shall be prosecuted for any of the offences in Sections 10 and 13 of this Ordinance mentioned, unless such prosecution shall be commenced within twelve months after the offence was committed.

Magistrates under this Ordinance. **15.** All members of the Legislative Council of the Colony, and all Stipendiary and other Justices of the Peace, shall respectively be Magistrates for the purposes and within the terms and meaning of Sections 10, 11 and 12 of this Ordinance.

Arrest. **16.** Any person found committing any offence made punishable by Sections 3, 4, 5, 6 and 7 of this Ordinance may be immediately apprehended without warrant by any Justice of the Peace, Warden or Constable.

Any person apprehended under this Section shall be taken as soon as conveniently may be before a Justice of the Peace to be dealt with according to law.

No. 20.

AN ORDINANCE relating to Treason and Misprision of Treason.

1. This Ordinance may be cited as the Treason Ordinance. Short title.
2. If any person shall compass, imagine, invent, devise, Treason. or intend any act or acts, matter or thing, the compassing, imagining, inventing, devising, or intending whereof is treason by the law of England, and such compassings, imaginations, inventions, devices, and intentions, or any of them, shall express, utter, or declare by publishing any printing or writing, or by any overt act or deed, or shall do or commit any act or acts which if done or committed in England would amount to or be deemed to be treason according to the law of England, every such person so offending, and being convicted thereof, shall be deemed, declared, and adjudged to be a traitor, and shall suffer death by hanging.
3. Every person who shall know of any treason, and shall Misprision of treason. not forthwith reveal the same to some Judge or Justice of the Peace, shall be guilty of misprision of treason, and being convicted thereof, shall suffer such punishment by way of imprisonment and fine, as the Court shall award.
4. When any person shall be indicted for treason or mis- Procedure. prision of treason a copy of the indictment and a list of the witnesses that shall be produced on the trial for proving the said indictment mentioning their names, professions and places of abode shall be delivered to the person so indicted ten days before the trial in the presence of two or more credible witnesses, but such person shall in all other respects be indicted, arraigned, tried and attainted in the same manner and according to the same course and order of trial as if such person stood charged with any other felony.
5. No person shall be indicted or tried for, or attainted of, Evidence. treason, or misprision of treason, but upon the oath of two lawful witnesses, either both of them to the same overt act, or one of them to one overt act, and the other of them to another overt act of the same treason, unless such person shall willingly and without violence in open Court confess the same.

No. 21.

AN ORDINANCE for the punishment of certain offences in relation to Railways and Telegraphs and for other purposes.

Short title. 1. This Ordinance may be cited as the Railways and Telegraphs Offences Ordinance.

Setting fire. 2. Any person who unlawfully and maliciously sets fire to any station, engine-house, warehouse or other building belonging or appertaining to any railway shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Injury to station, public bridge, &c.

3. Any person—

1. Who unlawfully and maliciously pulls or throws down or in anywise injures any station, engine-house, warehouse or other building belonging or appertaining to any railway, or
2. Who unlawfully and maliciously pulls or throws down or cuts or otherwise injures or removes any post, machinery, signal, semaphore, connecting rod or wire, or other thing belonging or appertaining to any railway, or
3. Who unlawfully and maliciously pulls or throws down or in anywise destroys any bridge (whether over any stream of water or not) or any viaduct or aqueduct over or under which bridge, viaduct or aqueduct any highway, railway or canal passes, or,
4. Who does any injury with intent and so as thereby to render any such bridge, viaduct or aqueduct as last aforesaid or the highway, railway or canal passing over or under the same or any part thereof dangerous or impassable,

shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Various offences.

4. Any person who unlawfully does any of the following acts :—

1. Places or casts upon a railway any thing whatso-

- ever liable to explode or be exploded, or calculated to obstruct, overthrow, destroy or injure any engine, tender, carriage, or truck, or to injure or alarm any person travelling or being on a railway, or to endanger the life or limb or otherwise endanger the safety of any such person, or
2. Takes up, removes or displaces any rail or sleeper or any other thing whatsoever belonging to a railway, or
 3. Turns, moves or diverts any points or other machinery belonging to a railway, or
 4. Makes or shows or hides or removes any signal or light upon or near to a railway, or
 5. Throws or in any manner projects at, upon or into or wilfully lets fall upon or into any train in motion on any railway any stone or other thing likely to cause injury or annoyance,

shall be guilty of an offence against this section and liable to punishment as follows:—

6. If the offender is under the age of sixteen years and has not been previously convicted of an offence against this section, such offender shall be guilty of an offence punishable on summary conviction and on conviction thereof before a Stipendiary Justice, such Justice may order the offender
 - (a.) if a male, to undergo corporal punishment or to be imprisoned with or without hard labour for any term not exceeding three months or to undergo corporal punishment and be imprisoned with or without hard labour for any term not exceeding three months, or
 - (b.) if a female, to be imprisoned with or without hard labour for any term not exceeding six months:
7. If the offender is under the age of sixteen years, and has been previously convicted of an offence against this section, such offender shall be guilty of a misdemeanour, and on conviction thereof may be imprisoned with or without hard labour

for any term not exceeding two years, and if a male may also be sentenced to undergo corporal punishment.

8. If the offender is not under the age of sixteen years, such offender shall be guilty of a misdemeanour, and on conviction thereof may be fined in any sum not exceeding one hundred pounds, and also if the Court so think fit, may be imprisoned with or without hard labour for any term not exceeding two years.

Any person who unlawfully and maliciously with either of the following intents :—

(c.) With intent to obstruct, overthrow, destroy or injure any engine, tender, carriage or truck on a railway, or

(d.) With intent to endanger the life or limb, or otherwise endanger the safety of any person travelling or being on a railway,

does any of the acts aforesaid, or any other act, shall be guilty of felony, and on conviction thereof shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Throwing
stones, etc.

5. Any person who unlawfully throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used upon any railway, any thing whatsoever with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train of which such first mentioned engine, tender, carriage or truck forms part, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

Doing or
omitting
anything to
endanger
passengers.

6. Any person who, by any unlawful act, or by any wilful omission or neglect, obstructs, or causes to be obstructed any engine, tender, carriage or truck on a railway, or endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with or without hard labour.

Omitting to
fasten gates.

7. Any person who omits to shut and fasten any gate set up on either side of any railway for the accommodation of

the owners or occupiers of the adjoining land as soon as he and any carriage, waggon, dray or cart, or any cattle or other animals under his care have passed through such gate, shall be guilty of an offence punishable on summary conviction before any Justice of the Peace, and be liable to a penalty not exceeding five pounds.

8. If any person wilfully obstructs or impedes in the execution of his duty any officer employed upon any railway, or upon or in any of the stations or other works or premises connected with any railway, or if any person wilfully trespasses upon any railway or any of the stations or other works or premises connected with any railway, and refuses to quit the same upon request to him made by any officer employed on such railway, every person so offending, and all others aiding or assisting in any such offence shall be guilty of an offence punishable on summary conviction and be liable to a penalty not exceeding twenty pounds.

Obstructing
railway officers
or trespassing.

Any such offender may be seized and detained by any officer employed on such railway, or by any person whom he may call to his assistance, until such offender can be conveniently taken before a Justice of the Peace to be dealt with according to law.

9. Any person who unlawfully and maliciously cuts, breaks, throws down, destroys, injures, or removes any battery, machinery, wire, cable, post or other thing whatsoever being part of, or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or unlawfully and maliciously prevents or obstructs in any manner whatsoever the sending, conveyance or delivery of any communication by any such telegraph, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with or without hard labour.

Offences in
regard to
telegraphs.

Provided that if it appears to any Stipendiary Justice on the examination of any person charged with any offence against this section, that it is not conducive to the ends of justice that such offence should be prosecuted by indictment, the said Justice may proceed summarily to hear and determine the same, and the offender shall, on conviction thereof, be imprisoned and kept to hard labour for any term not exceeding six months, or else shall forfeit and pay such

sum of money, not exceeding ten pounds, as to the said Justice seems meet.

Attempts.

Any person who unlawfully and maliciously, by any overt act, attempts to commit any of the offences in this section mentioned shall, on conviction thereof before a Stipendiary Justice, be liable to be imprisoned and kept to hard labour for any term not exceeding six months, or else shall forfeit and pay such sum of money, not exceeding ten pounds, as to the said Justice seems meet.

No. 22.

AN ORDINANCE to make provision for the punishment of certain offences.

1. This Ordinance may be cited as the Criminal Offences Short title. Ordinance.

2. Every offence which if done or committed in England Common Law offences. would amount to a felony or misdemeanour at Common Law, shall, if done or committed in this Colony, be taken to be a felony or misdemeanour as the case may be, and shall be liable to be and shall be punished in the same manner as it would be in England, under or by virtue of any special or general statute providing for the punishment of such offence, or if there be no such statute, by the Common Law: Provided always that nothing herein contained shall be construed as limiting or affecting the power of the Governor and Legislative Council to make express provision, by Ordinance, for the punishment of any such felony or misdemeanour.

3. Whosoever is guilty of perjury, or subornation of per- Perjury. jury, shall be liable to be imprisoned, with or without hard labour, for any term not exceeding seven years.

4. If any person shall falsely and deceitfully personate Personation. any person, or the heir, executor, or administrator, wife, widow, next of kin, or relation of any person, with intent fraudulently to obtain any land, estate, chattel, money, valuable security, or property, he shall be guilty of felony, and upon conviction shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

Provided that nothing in this section shall prevent any person from being proceeded against and punished under any other Ordinance or at Common Law in respect of any offence punishable as well under this section as under any other Ordinance, or at Common Law.

5. Whenever any person shall be convicted of any of the Breaking out of prison. following offences, that is to say, breaking out of any prison in which such person shall be detained under sentence for any felony, or to which such person shall have been committed for any felony, or on suspicion thereof; the rescue of or attempt to rescue or set at liberty any person convicted Rescue. of any capital felony going to execution or during execution;

or the rescue of, or aiding or assisting in the rescue of any person convicted of felony, or of any person charged with or suspected of, or committed for any felony, or on suspicion thereof, where the person so charged, suspected, or committed, shall be afterwards convicted of the felony; every such offender shall be guilty of felony, and shall suffer such punishment by imprisonment for such term not exceeding three years, and with or without hard labour, during the whole or such portion or portions of such imprisonment, as the Court shall see fit to direct.

Attempt to commit felony. 6. When any person shall be convicted of any of the following offences, that is to say—any attempt to commit any offence being felony at Common Law in England, or made felony by any Statute of the Imperial Parliament, Order in Council, or Ordinance in force in this Colony, at the time of such attempt being made; blasphemy, writing and publishing, or printing and publishing, any blasphemous libel: bribery, conspiracy, escape, or aiding or assisting in, or voluntarily or negligently permitting any escape: breaking out of any prison in which such person shall be lawfully detained on any civil process, or under sentence for any misdemeanour, or to which such person shall have been committed on any charge of misdemeanour: any rescue of, or attempt to rescue any person, when such offence shall not be punishable as a felony: keeping a common gaming-house, or common bawdy-house, or a common ill-governed and disorderly house: sending any challenge with intent to provoke, or otherwise endeavouring to provoke any person to commit a breach of the peace: sedition: writing and publishing or printing and publishing, any seditious libel, or publishing any obscene print, writing, or picture—in each and every of the above cases, every such offender shall be guilty of a misdemeanour, and shall suffer such punishment by fine or imprisonment, with or without hard labour, for such term not exceeding two years, or by both fine and imprisonment, as the Court shall think fit to direct.

Scandalous or defamatory libel. 7. Whenever any person shall be convicted of any of the following offences, that is to say—writing and publishing, or printing and publishing, any scandalous or defamatory libel: wilfully and knowingly selling any unwholesome provisions; or any nuisance of a public nature: every such offender shall be guilty of a misdemeanour, and shall suffer such punishment by fine or imprisonment, for such term not exceeding one

Selling unwholesome provisions.

Public nuisance.

year, or by both fine and imprisonment, as the Court shall think fit to direct.

8. Whenever any person shall be convicted of any one of the offences following as an indictable misdemeanour, that is to say, any cheat or fraud punishable at Common Law in England, any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert or defeat the course of public justice, any escape or rescue from lawful custody on a criminal charge, any public and indecent exposure of the person, any indecent assault, any public selling or exposing for public sale or to public view of any obscene book, print, picture, or other indecent exhibition, it shall be lawful for the Court to sentence the offender to be imprisoned for any term warranted by law, and also to be kept to hard labour during the whole or any part of such term of imprisonment.

Cheat or fraud.
Conspiracy to defraud.
Escape or rescue.
Indecent exposure.
Indecent assault.
Indecent books, etc.

9. All and every act or acts which, if done or committed in England, would according to the law of England, amount to or constitute any of the offences specified in Sections 5, 6 and 7 hereof shall be held to amount to and constitute the same offence in this Colony.

10. In the case of every felony punishable under any Ordinance in force in this Colony every principal in the second degree and every accessory before the fact for whom no punishment is provided shall be punishable in the same manner as the principal in the first degree is punishable; and every accessory after the fact to any felony punishable under any Ordinance in force in this Colony for whom no punishment is provided (except only a receiver of stolen property) shall on conviction be liable to be imprisoned for any term not exceeding two years with or without hard labour; and every person who shall compel, counsel, aid or abet the commission of any misdemeanour punishable under any Ordinance in force in this Colony shall be liable to be proceeded against and punished as a principal offender.

Accessories.
Aiders and abettors.

No. 23.

AN ORDINANCE respecting Defamatory Words and Libel.

Short title. 1. This Ordinance may be cited as the Libel and Defamation Ordinance.

When action for defamation maintainable. 2. In any of the Courts of Justice in this Colony no action for defamation shall be maintainable in respect of words spoken except in those cases in which an action would be maintainable in respect of the same words in the Courts of Common Law in England.

The truth may be pleaded by way of justification. 3. In any action for defamation or for libel it shall be lawful for the defendant to plead the truth of the matters charged by way of justification in the same manner as he might do in any like action in any Court of Common Law in England, and such plea shall be a sufficient answer in law to any such action ; and if on the issue joined on such plea a verdict shall pass for the defendant, the defendant shall have final judgment and recover his costs of suit.

Offer of apology admissible in mitigation of damages. 4. In any action for defamation, it shall be lawful for the defendant (after notice in writing of his intention so to do duly given to the plaintiff at the time of filing or delivering the plea in such action) to give in evidence in mitigation of damages, that he made or offered an apology to the plaintiff for such defamation before the commencement of the action or as soon afterwards as he had an opportunity of doing so, in case the action shall have been commenced before there was an opportunity of making or offering such apology.

In action against newspaper defendant may plead insertion without malice and neglect, and pay money into Court as amends. 5. In any action for a libel contained in any public newspaper or other periodical publication it shall be competent to the defendant to plead that such libel was inserted in such newspaper or other periodical publication without actual malice, and without gross negligence, and that before the commencement of the action or at the earliest opportunity afterwards, he inserted in such newspaper or other periodical publication a full apology for the said libel, or if the newspaper or periodical publication in which the said libel appeared shall be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper or periodical publication to be selected by the plaintiff in such action ; and every such defendant shall, upon filing such plea, be at liberty to pay into Court

a sum of money by way of amends for the injury sustained by the publication of such libel; and such payment into Court shall be of the same effect and be available in the same manner and to the same extent as any payment into Court under the Rules of the Supreme Court.

6. If any person shall publish or threaten to publish any libel upon any other person, or shall directly or indirectly threaten to print or publish, or shall directly or indirectly propose to abstain from printing and publishing, or shall directly or indirectly offer to prevent the printing or publishing of any matter or thing touching any other person with intent to extort any money or security for money, or any valuable thing from such or any other person, or with intent to induce any person to confer upon or procure for any person any appointment or office of profit or trust, every such offender on being convicted thereof shall be liable to be imprisoned with or without hard labour for any term not exceeding three years: Provided always that nothing herein contained shall in any manner alter or affect any law now in force in respect of the sending or delivery of threatening letters or writings.

Publishing or threatening to publish libel, or proposing to abstain from publishing anything with intent to extort money.

7. If any person shall maliciously publish any defamatory libel, knowing the same to be false, every such person being convicted thereof shall be liable to be imprisoned for such term not exceeding two years, and to pay such fine, as the Court shall award.

False defamatory libel.

8. If any person shall maliciously publish any defamatory libel, every such person being convicted thereof shall be liable to fine or imprisonment or both, as the Court may award; such imprisonment not to exceed the term of one year.

Malicious defamatory libel.

9. On the trial of any indictment for a defamatory libel the defendant having pleaded such plea as hereinafter mentioned, the truth of the matters charged may be inquired into, but shall not amount to a defence, unless it was for the public benefit that the said matters charged should be published; and to entitle the defendant to give evidence of the truth of such matters charged as a defence to such indictment, it shall be necessary for the defendant in pleading to the said indictment to allege the truth of the said matters charged in the manner required in pleading a justification to an action for defamation, and further to allege that it was for the public benefit that the said

Proceedings on trial of indictment for defamatory libel.

matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the said matters charged should be published, to which plea the prosecutor shall be at liberty to reply generally denying the whole thereof; and if after such plea the defendant shall be convicted on such indictment, it shall be competent to the Court in pronouncing sentence to consider whether the guilt of the defendant is aggravated or mitigated by the said plea, and by the evidence given to prove or disprove the same: Provided always that the truth of the matters charged in the alleged libel complained of by such indictment shall in no case be inquired into without such plea or justification: Provided also that in addition to such plea it shall be competent to the defendant to plead a plea of not guilty: Provided also that nothing in this Ordinance contained shall take away or prejudice any defence under the plea of not guilty which it is competent to the defendant to make under such plea to any action or indictment for defamatory words or libel.

Proviso as to plea of not guilty.

Evidence to rebut *prima facie* case of publication by an agent.

10. Whenever upon the trial of any indictment for the publication of a libel under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent, or knowledge, and that the said publication did not arise from want of due care or caution on his part.

Costs.

11. In the case of any indictment by a private prosecutor for the publication of any defamatory libel, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the said defendant by reason of such indictment, and that upon a special plea of justification to such indictment, if the issue be found for the prosecutor, he shall be entitled to recover from the defendant the costs sustained by the prosecutor by reason of such plea, such costs so to be recovered by the defendant or prosecutor respectively to be taxed by the proper officer of the Court before which the said indictment is tried.

No. 24.

AN ORDINANCE for the more effectual prevention of crime.

1. This Ordinance may be cited as the Habitual Criminals Ordinance. Short title.

2. In this Ordinance :

Interpretation.

The term " Court " includes any Stipendiary or other Justice of the Peace having jurisdiction in the matter to which the term refers, and the words " Chief Officer of Police " mean the Inspector-General or other officer having the chief command of the police in any police division.

" Crime " so far as relates to the registration of criminals means any felony or any offence not a felony specified in Schedule I.

Registration of Criminals.

3. For the better supervision of criminals, a register of all persons convicted of crime in this Colony shall be kept under the management of the Inspector-General of Police, or of such other person as the Governor may from time to time appoint, in such form, with such evidence of identity, and containing such particulars and subject to such regulations as may from time to time be prescribed by the Governor. Register of criminals.

4. In order to make such register complete, and to make the supervision over criminals effectual the Chief Officer of Police in every district shall from time to time make returns to the Inspector-General in such manner and at such times and containing such evidence of identity and other information with respect to persons convicted of crime, as the Inspector-General may from time to time direct. Returns for purposes of register.

Habitual Criminals.

5. Where any person is convicted on indictment of any offence specified in Schedule I, and he be proved to have been previously convicted of any offence specified in the said Schedule, then, in addition to any other punishment which may be awarded to him, it shall be deemed to be part of the sentence passed on him, unless otherwise declared by the Court, that he is to be subject to the supervision of the Police as hereinafter mentioned for a period of three years, or such less period as the Court shall direct, commencing from the time at which he is convicted and exclusive of the time during which he is undergoing his punishment. Persons twice guilty of felony to be subject to police supervision.

Person
subject to
supervision to
report twice a
month, and to
notify change
of residence.

6. Every person subject to the supervision of the Police who shall, unless prevented by illness, or other unavoidable cause, fail to report himself personally twice in each month, or oftener if required, at such time or place and in such manner, and to such person as the Inspector-General of Police shall appoint, or who shall change his residence from one police district to another, without having previously notified such removal and the place to which he is about to remove to the Chief Officer of Police, shall on summary conviction of any such offence be imprisoned with or without hard labour for any period not exceeding three months.

Every person required under this section to notify his residence or any change thereof shall comply with such requirement by personally presenting himself and declaring his place of residence to the constable or person who at the time when such notification is made is in charge of the Police Station or office of which notice has been given to such person or holder as the place for receiving his notification, or if no such notice has been given to the person in charge of the chief office of such chief officer of Police.

The Inspector-General of Police may direct that reports and notifications under this section shall be made to the constable or person in charge of any particular Police Station or office without naming the individual person.

Any appointment, direction, or authority purporting to be signed by the Inspector-General of Police or the Chief Officer of Police, and to have been made or given for the purposes of this Ordinance, shall be evidence, until the contrary is proved, that the appointment, direction, or authority thereby made or given was duly made or given by the Inspector-General or the Chief Officer of Police, and evidence that it appears from the records kept by authority of the Inspector-General or the Chief Officer of Police that a person required as above mentioned to notify his residence or change of residence or make a report has failed to comply with such requirement, shall be *prima facie* evidence that the person has not complied with such requirement, but if the person charged alleges that he has made such notification or report to any particular person or at any particular time, the Court shall require the attendance of such persons as may be necessary to prove the truth or falsehood of such allegation.

Offences by
person subject

7. Where any person is subject, in pursuance of this Ordinance, to the supervision of the Police, he shall be guilty

of an offence punishable on summary conviction with imprisonment with or without hard labour for a term not exceeding one year, under the following circumstances, or any of them : to police supervision.

- (1.) If on his being charged by a constable or Police officer with getting his livelihood by dishonest means, he fails to make it appear to the Stipendiary Justice before whom he is brought that he is not getting his livelihood by dishonest means ;
- (2.) If he is found by any constable or Police officer in any place, whether public or private, under such circumstances as to satisfy the Stipendiary Justice before whom he is brought that he was about to commit or to aid in the commission of any crime punishable on summary conviction or indictment, or was waiting for an opportunity to commit or aid in the commission of any such crime ;
- (3.) If he is found by any person in or upon any dwelling-house, or any building, yard or premises, being parcel of or attached to such dwelling-house, or in or upon any shop, warehouse, counting-house or other place of business, or in any garden, orchard, pleasure-ground, or nursery-ground, without being able to account to the satisfaction of the Stipendiary Justice before whom he is brought for his being found on such premises.

Any person charged with an offence under this section may be taken into custody by any constable or Police officer without warrant, or may, if charged with being guilty of an offence committed under the circumstances thirdly herein-before mentioned, or any of them, be apprehended by the owner or occupier of the property on which he is found, or by the servants of the owner or occupier, or by any other person authorized by the owner or occupier, and may be detained until he can be delivered into the custody of a constable or Police officer for the purpose of being brought before the Stipendiary Justice ; provided that no person shall be so taken into custody on the ground that he is suspected of getting his livelihood by dishonest means except under a written authority from the Inspector-General or an Inspector of Police.

When a person is convicted under this section of an offence which subjects him to the supervision of the Police, the record of his conviction shall contain a statement to the effect that he is subject to the supervision of the Police for the period of three years, or such less period as the Court shall direct, commencing from the date of his conviction, and exclusive of the time during which he is undergoing his punishment, or words to the like effect; but the omission of such statement shall not exempt any person from the operation of this section.

Receivers of Stolen Goods.

Burden of proof in cases of receiving stolen goods.

8. Where any person who has been previously convicted of any offence specified in Schedule I, and involving fraud or dishonesty, is found in the possession of stolen goods, evidence of such previous conviction shall be admissible as evidence of his knowledge that such goods have been stolen; and in any proceedings that may be taken against him as receiver of stolen goods, or otherwise in relation to his having been found in possession of such goods, proof may be given of his previous conviction before evidence is given of his having been found in possession of such stolen goods; provided that not less than seven days notice shall be given to such person that proof is intended to be given of his previous conviction, and that he will be deemed to have known such goods to have been stolen until he has proved the contrary.

Moreover, where proceedings are taken against any person for having in his possession stolen goods, evidence may be given that there were found in the possession of such person other goods stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the goods to be stolen which form the subject of the proceedings taken against him.

Power of entry, search and seizure.

9. Any constable or Police officer may, if authorized so to do in writing by a chief officer of Police, enter any house, shop, warehouse, yard or other premises in search of stolen goods, and make such search, and seize and secure any property he may believe to have been stolen in such manner as he would be authorized to do if he had a search warrant, and the property seized, if any, corresponded to the property described in such search warrant: Provided

that in every case in which any property is seized, the person on whose premises it was at the time of seizure, or the person from whom it was taken, if other than the person on whose premises it was, shall, unless previously charged with receiving the same knowing it to have been stolen, be summoned within three days before a Justice of the Peace to account for his possession of such property, and such Justice shall make such order respecting the disposal of such property as the justice of the case may require; and it shall be lawful for any chief officer of Police to give such authority as aforesaid in the following cases :—

- (1.) When such premises are at, or have been within eighteen months of the time of such search in the occupation of any person who has been convicted of receiving stolen property or of harbouring thieves;
- (2.) When such premises are at the time of such search in the occupation of any person who has been convicted of any offence involving fraud or dishonesty and punishable by imprisonment.

And it shall not be necessary for such officer of Police in giving such authority to specify any particular property, but he may give such authority if he has reason to believe generally that such premises are being made a receptacle for stolen goods.

10. Any person accused of an offence punishable on summary conviction under this Ordinance, may be remanded from time to time by the Stipendiary Justice before whom he is brought for the purpose of enabling evidence to be obtained against him, or for any other just cause. Power to remand.

11. The forms set forth in Schedule II, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and when used shall be deemed to be valid and sufficient in law. Forms.

SCHEDULE I.

Any felony not punishable with death also, or the offence of uttering false or counterfeit coin, or of possessing counterfeit gold or silver coin, or the offence of obtaining goods or money by false pretences, or the offence of conspiracy to defraud.

SCHEDULE II.

TRINIDAD AND TOBAGO.

To a Constable in the
County of and to the keeper of the Royal Gaol.

Whereas A.B. being a person subject by the provisions of "The Habitual Criminals Ordinance" to the supervision of the Police has been taken into custody by C. D., a constable, and brought this day before me, Stipendiary Justice of the Peace in and for the County aforesaid, and charged before me upon the oath of the said constable taken before me in the presence and hearing of the said A. B. [with being suspected by the said constable of getting his livelihood by dishonest means, and the said A. B. having failed to make it appear to the satisfaction of me, the said Justice, that he is not getting his livelihood by dishonest means] or [with being found by the said C. D. in under such circumstances as to give rise to suspicion that the said A. B. was about to commit or aid in the commission of a crime punishable on summary conviction or indictment (that is to say)] or [waiting for an opportunity to commit or aid in the commission of a crime punishable on summary conviction or indictment (that is to say)]
or [with being found by C.D. (or any person) in or upon a dwelling house, or dwelling or yard, or premises, being parcel of, or allotted to a dwelling house or in or upon a shop, warehouse, counting house, or other place of business, or in any garden, orchard, or pleasure ground or nursery ground, the said A.B. not being able satisfactorily to account for his being found on the said]
or [with having failed, he not being prevented by illness or other unavoidable cause, to report himself personally to twice in the month of now last past:] or [with having on the day of changed his residence from the police district of to the police district of without having previously notified such removal, and the place to which he was about to remove to the chief officer of Police of the first-mentioned police district.] I, the said Justice, do, in pursuance of the above-recited Ordinance, convict the said A. B. of the said offence, and adjudge that the said A. B. for the said offence shall be imprisoned in the Royal Gaol, and there kept to hard labour for the space of

These are, therefore, to command you the said constable to take the said A. B., and him safely to convey to the said Royal Gaol, and there to deliver him to the keeper thereof together with this precept; and I do hereby command you the said keeper of the said Royal Gaol, to receive the said A. B. into your custody in the said Royal Gaol, there to imprison him and keep him to hard labour for the space of calendar months.

Given under my hand at in the said
County this day of
in the year of our Lord one thousand nine hundred

No. 25.

AN ORDINANCE with regard to Alien Criminals.

1. This Ordinance may be cited as the Alien Criminals Short title.
Ordinance.

2. In this Ordinance the words "alien criminal" mean "Alien Criminal."
any alien criminal, who, having been sentenced by any foreign tribunal to imprisonment or transportation for any crime or offence, shall afterwards come to this Colony either before or after the expiration of his term of imprisonment or transportation.

3. It shall be lawful for the Inspector-General, or any Inspector of Police, by writing under his hand addressed to any constable to cause any person whom such Inspector-General or Inspector may have reasonable cause to believe to be an alien criminal within the meaning of this Ordinance, to be taken into custody and brought before a Stipendiary Justice of the Peace, and if it shall appear to such Justice that there are reasonable grounds for such belief, it shall be lawful for such Justice to call upon the person so brought before him to declare his name, the country to which he belongs or is subject, the port or place from whence, the vessel by which, and the day on which he shall have arrived in this Colony, and if such person shall fail to make it appear to the satisfaction of such Justice that he is not an alien criminal, the Justice shall adjudge such person to be a suspected person within the meaning of this Ordinance, and subject to the supervision of the Police, as hereinafter mentioned, for a period of five years or such less period as such Justice shall direct.

Person failing to prove that he is not an alien criminal to be adjudged a suspected person, and to be subject to police supervision.

4. Where the Stipendiary Justice shall be of opinion that any person so brought before him, although an alien criminal, has completed his term of deportation or imprisonment before coming to this Colony, it shall be lawful for such Justice, on such person, together with two sufficient householders to be approved by such Justice, entering into a recognizance to His Majesty, each in the sum of one hundred pounds, conditioned for the good behaviour of such person, during the term of three years from the day of the date of such recognizance, to forbear from making any adjudication under this Ordinance, and on such recognizance being entered into, such person shall be discharged from custody.

Alien criminals who have completed term of imprisonment.

Suspected person to report himself twice a month, and to notify change of residence.

5. Every person adjudged a suspected person under this Ordinance, who during the term for which he shall have been subjected to the supervision of the Police, shall unless prevented by illness, or other unavoidable cause, fail to report himself personally, twice in each month, or oftener if required, at such time or place, and in such manner, and to such person as the Inspector-General of Police shall appoint; or shall change his residence from one police district to another, without having previously notified such removal and the place to which he is about to remove, to the Inspector-General or some Inspector of Police, shall on summary conviction of any such offence be imprisoned with or without hard labour for any period not exceeding three months.

Suspected person to be deemed an habitual criminal.
No. 24.

6. Every person adjudged a suspected person under this Ordinance shall during the term for which he shall be subject to the supervision of the Police, be deemed an habitual criminal within the meaning of the Habitual Criminals Ordinance, and if guilty of any of the offences mentioned in Section 7 of the said Ordinance, shall and may be dealt with and punished under the provisions of the said Ordinance.

No. 26.

AN ORDINANCE relating to Convicts licenses.

1. This Ordinance may be cited for all purposes as the Short title.
Convicts License Ordinance.

2. In this Ordinance

The term "Convict" means any person who has been convicted upon an indictment and sentenced to imprisonment;

Interpre-
tation.

The term "Chief District Police Officer" means the Commissioned or Non-commissioned Officer of Police in immediate command of the Police at any Station to which a Police district is assigned.

3. It shall be lawful for the Governor by an order in writing under his hand to grant to any convict a license to be at large in this Colony, or in such part thereof as in such license is expressed, during such portion of his term of imprisonment as to the Governor seems fit, and upon such conditions as are expressed in the license; and it shall be lawful for the Governor at any time by a like order to revoke or alter such license. Such license may be in the form set forth in the first Schedule to this Ordinance, or in any other form which the Governor considers it expedient to adopt, and may contain the conditions set forth in the form in the said first Schedule, or other and different conditions, and may be wholly or in part written, printed or lithographed.

Licenses to
convicts.

4. So long as such license continues in force and unrevoked, the convict to whom it is granted shall not be liable to be imprisoned by reason of his sentence, but shall be allowed to go and remain at large according to the tenor of such license.

Effect of
license.

5. Where the Governor revokes any such license as aforesaid, he may by warrant under his hand signify to any Stipendiary Justice of the Peace that such license has been revoked, and require such Stipendiary Justice to issue his warrant for the apprehension of the convict to whom the license was granted. Such warrant may be executed by any constable in any part of the Colony.

Revocation of
license by
Governor.

The convict, when apprehended, shall be brought as soon as conveniently may be before some Justice of the

Peace, who shall thereupon make out his warrant for the recommitment of the convict to the Royal Gaol, and such convict shall be so recommitted accordingly, and shall thereupon be remitted to his original sentence, and shall undergo the residue of his sentence as if no such license had been granted : Provided that the time during which the convict was at large under his license shall be reckoned as served under his sentence.

Convict holding license to notify residence to police.

6. Every holder of a license shall notify the place of his residence to the Chief District Police Officer of the district in which his residence is situated, and shall, whenever he changes such residence within the same police district, notify such change to the Chief District Police Officer of that district, and whenever he changes his residence from one police district to another shall notify such change of residence to the Chief District Police Officer of the police district in which he is living, and to the Chief District Police Officer of the police district into which he goes to reside. Moreover, every male holder of a license shall once in every month of the year report himself at such time as may be prescribed by the Chief District Police Officer of the district in which such holder may be, either to such chief officer himself, or to such other person as that officer may direct ; and such report may, according as such chief officer directs, be required to be made personally or by letter ; and every male holder of a license shall, before he leaves the prison in which at the time of the grant of the license he is confined, notify to the keeper of the prison the district in which he will first report himself as aforesaid.

If any holder of a license remains in any place for forty-eight hours without notifying the place of his residence to the Chief District Police Officer of the district in which such place is situated, or fails to comply with the requisitions of this section on the occasion of any change of residence, or with the requisitions of this section as to reporting himself once in each month of the year, or fails to notify as aforesaid the district in which he will first report himself, or fails to report himself accordingly, he shall in every such case, unless he proves to the satisfaction of the Court before whom he is tried that he did his best to act in conformity with the law, be guilty of an offence against this Ordinance, and upon conviction thereof his license may in the discretion of the Court be revoked.

Any holder of a license required by this section to notify his residence or any change of his residence to a Chief District Police Officer shall comply with such requirement by personally presenting himself and declaring his place of residence to the constable or person who at the time when such notification is made is in charge of the Police Station or office of which notice has been given to such person or holder as the place for receiving his notification, or if no such notice has been given, in charge of the chief office of such Chief District Police Officer.

Any appointment, direction or authority purporting to be signed by the Inspector-General of Police or the Chief District Police Officer and to have been made or given for the purposes of this Ordinance shall be evidence until the contrary is proved, that the appointment, direction or authority thereby made or given was duly made or given by the Inspector-General or the Chief District Police Officer, and evidence that it appears from the records kept by authority of the Inspector-General or the Chief District Police Officer that a person required as above mentioned to notify his residence or change of residence or make a report has failed to comply with such requirement, shall be *prima facie* evidence that the person has not complied with such requirement, but if the person charged alleges that he has made such notification or report to any particular person or at any particular time, the Court shall require the attendance of such persons as may be necessary to prove the truth or falsehood of such allegation.

The Chief District Police Officer may direct that notifications under this section shall be made to the constable or person in charge of any particular Police Station or office without naming the individual person.

7. If any holder of a license—

1. Fails to produce his license when required to do so by any Judge, Justice of the Peace or other Magistrate, before whom he may be brought charged with any offence, or by any constable in whose custody he may be, and also fails to make any reasonable excuse why he does not produce the same, or
2. Breaks any of the conditions of his license by an act which is not of itself punishable either upon indictment or upon summary conviction

Offences by
holder of a
license.

he shall be deemed guilty of an offence against this Ordinance, and shall be liable to imprisonment for any period not exceeding three months, with or without hard labour.

Any constable may without warrant take into custody any holder of a license whom he may reasonably suspect of having committed any offence, or having broken any of the conditions of his license, and may detain him in custody until he can be taken before a Justice of the Peace or other competent Magistrate, and dealt with according to law.

Holder of
license getting
livelihood by
dishonest
means.

8. Any constable in any Police District may, if authorised so to do in writing by the Inspector-General or any Inspector of Police, take into custody without warrant any convict who is the holder of a license granted under this Ordinance, if it appears to such constable that such convict is getting his livelihood by dishonest means, and may bring him before a Stipendiary Justice of the Peace for adjudication, and if it appears that there are reasonable grounds for believing that the convict is getting his livelihood by dishonest means, such convict shall be deemed guilty of an offence against this Ordinance, and upon conviction thereof his license may be revoked.

Forfeiture of
license.

9. Where upon indictment any person is convicted of an offence, and of being at the time of committing such offence (in this Ordinance referred to as a substantive offence) the holder of a license granted under this Ordinance, it shall be part of the sentence that the license shall be deemed to have become forfeited upon the commission of the substantive offence.

Procedure
where an
indictable
offence is
committed by
a license
holder.

10. In any indictment for an offence committed by a person holding a license under this Ordinance it shall be sufficient after charging the substantive offence to state that the offender was at the time of committing such offence a convict at large under a license granted under this Ordinance.

Upon any such indictment the proceedings shall be as follow, that is to say, the offender shall in the first instance be arraigned upon so much only of the indictment as charges the substantive offence, and if he pleads not guilty, or if the Court orders a plea of not guilty to be entered on his behalf, the jury shall be charged in the first instance to inquire concerning such substantive offence only, and if they find him guilty, or if upon his arraignment he pleads guilty, he shall then and not before be asked whether at the time

of committing the substantive offence he was a holder of a license granted under this Ordinance, and if he answers that he was such holder of a license the Court may proceed to sentence him accordingly, but if he denies that at the time of committing the substantive offence he was such holder of a license as aforesaid, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to enquire whether at the time of committing the substantive offence the offender was the holder of a license under this Ordinance, and in such case it shall not be necessary to swear the jury again but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned inquiry: Provided that if upon the trial for the substantive offence the person accused gives evidence of his good character it shall be lawful for the prosecutor in answer thereto to give evidence that such person was the holder of a license granted under this Ordinance before the verdict in reference to the substantive offence is returned, and in that case the jury shall at one and the same time inquire concerning the substantive offence and also whether the person indicted was at the time of committing the offence the holder of a license granted under this Ordinance.

A certificate containing the substance and effect only of the indictment for the substantive offence and of the judgment thereon purporting to be signed by the Registrar of the Courts, shall, upon proof of the identity of the person of the offender, be sufficient evidence of the matters certified without proof of the signature or official character of the person appearing to have signed the certificate.

11. Where any holder of a license granted under this Ordinance is summarily or on an indictment convicted of an offence against this Ordinance or of any other offence, the license of such holder, if not forfeited by virtue of such offence, may, in the discretion of the Court before which he is convicted, be revoked.

Revocation of
license after
conviction.

12. Where any license granted under this Ordinance is forfeited, or is revoked in consequence of a conviction for any offence, the convict whose license is so forfeited or revoked shall, in addition to any punishment or penalty to which he may be sentenced for the substantive offence in consequence of which his license is forfeited or revoked, further undergo a period of imprisonment with hard labour equal to the portion of his term of imprisonment which

Effect of
forfeiture or
revocation
after
conviction.

remained unexpired at the time of his license being granted, and shall be dealt with in all respects as if such period had formed part of his original sentence, and such period, if imprisonment be adjudged in respect of the substantive offence, shall commence at the expiration of such last-mentioned imprisonment.

Procedure. **13.** Any offence against this Ordinance shall be an offence punishable on summary conviction before a Stipendiary Justice of the Peace, and the proceedings in reference to such offence shall be according to the Summary Conviction Offences (Procedure) Ordinance.

No. 1. **14.** Any act or thing authorised to be done by or to the Chief District Police Officer of any district may be done by or to any constable authorised by him in that behalf.

Chief officer of police. **15.** The forms contained in the second schedule, or forms as nearly resembling the same as circumstances admit, may be used in all cases to which they refer and are applicable, and when so used shall be valid in law.

Forms. **16.** Nothing in this Ordinance shall affect any prerogative of His Majesty.

Saving.

FIRST SCHEDULE.

FORM OF LICENSE.

TRINIDAD AND TOBAGO.

Government House, Port-of-Spain,
day of 19 .

The Governor is pleased to grant to _____ who was convicted of _____ at the Criminal Sessions held at _____ on the _____ day of _____ and was then and there sentenced to be imprisoned for the term of _____ and is now confined in the _____ license to be at large, from the day of his liberation under this order, during the remaining portion of his said term of imprisonment, unless the said _____ shall, before the expiration of the said term, commit some offence, in which case if it be an indictable offence, the license will be immediately forfeited by law, and if it be any other offence, the license may be revoked by the convicting Court or Magistrate, or unless the Governor pleases sooner to revoke or alter such license.

This license is also subject to the conditions endorsed upon the same, upon the breach of any of which it will be liable to be revoked, whether such breach is by a conviction or not.

And the Governor hereby orders that the said
 be set at liberty within thirty days from the date of this
 order: Provided that he first notifies to the keeper of the Royal Gaol in
 the town of Port-of-Spain, the police district in which he will first report
 himself pursuant to the Convicts License Ordinance.

Colonial Secretary.

Conditions.

1. The holder shall preserve his license, and produce it when called upon to do so by a Magistrate or Police officer.
2. He shall abstain from any violation of the law.
3. He shall not habitually associate with notoriously bad characters, such as reputed thieves or prostitutes.
4. He shall not lead an idle and dissolute life, without visible means of obtaining an honest livelihood.

If his license is forfeited or revoked in consequence of a conviction for any offence, he will be liable to undergo a term of imprisonment equal to the portion of his term of years which remained unexpired when his license was granted, viz., the term of years.

SECOND SCHEDULE.

FORMS OF WARRANTS.

Form of Warrant for Commitment on revocation of License by a Magistrate or Court.

TRINIDAD AND TOBAGO.

To all constables and to *E. F.* the keeper of the Royal Gaol in the town of Port-of-Spain.

Whereas *A. B.*, late of was this day duly convicted before me the undersigned, a Stipendiary Justice of the Peace, of an offence against the Convicts' License Ordinance.

[For that it appeared from the facts proved before me that there were reasonable grounds for believing that he the said *A. B.*, being the holder of a license under the Convicts' License Ordinance, was getting his livelihood by dishonest means, and I did thereupon revoke his license.]

Or,

[For that he, being the holder of a license granted under the Convicts' License Ordinance, remained for forty-eight hours in without notifying the place of his residence to the chief District Police Officer of the district in which the said is situate, and did not prove to my satisfaction that he did his best to act in conformity with the law, and I did thereupon revoke his license.]

Or,

[For that he, being the holder of a license under the Convicts' License Ordinance, changed his residence within the police district of _____ and failed to notify such change to the chief District Police Officer of that district, and did not prove to my satisfaction that he did his best to act in conformity with the law, and I did thereupon revoke his license.]

Or,

[For that he, being the holder of a license under the Convicts' License Ordinance, changed his residence from the police district of _____ to the police district of _____ and failed to notify such change of residence to the chief District Police Officer of the police district of _____ and did not prove to my satisfaction that he did his best to act in conformity with the law, and I did thereupon revoke his license.]

Or,

[For that he, being the holder of a license under the Convicts' License Ordinance, failed to report himself at the time and in the manner prescribed by the chief District Police Officer of the district of _____ in which the said holder was [or, named by him the said holder as the district in which he would first report himself], namely [*here state time and manner*], and did not prove to my satisfaction that he did his best to act in conformity with the law, and I did thereupon revoke his license.]

And I adjudged that he the said *A. B.* should be imprisoned with hard labour in the Royal Gaol, in the town of Port-of-Spain, for the period which at the time when his license was granted remained unexpired of the term of imprisonment which he was then serving, to wit, the period of _____ years.

I do therefore command you the said constables to take him the said *A. B.* and him safely to convey to the Royal Gaol in the town of Port-of-Spain, and there deliver him to the keeper of the said gaol, together with this warrant.

And I do hereby command you the said keeper to receive the said *A. B.* into the said prison, and there to imprison him and keep him to hard labour for the said period of _____ years.

And for so doing this shall be your warrant.

Given under my hand this _____ day of _____
in the year 19 _____.

(Signed)

Stipendiary Justice of the Peace.

Form of Warrant on Breach of Condition of License.

TRINIDAD AND TOBAGO.

To all Constables and to *E. F.*, keeper of the Royal Gaol, in the town of Port-of-Spain.

Whereas *A. B.* of _____ was this day convicted before me,

the undersigned Stipendiary Justice of the Peace, for that he, being a holder of a license under the Convicts' License Ordinance, had broken the following condition in his license [*here set out the condition*], and was adjudged by me to be imprisoned for the space of with
[or without] hard labour.

I do therefore hereby command you, the said constables, to take the said *A. B.* and him safely to convey to the said gaol and there to deliver him to the said keeper, together with this warrant.

And I do hereby command you, the said keeper, to receive the said *A. B.* into the said gaol, and there to imprison him [^{*}and keep him to hard labour] for the space aforesaid.

And for so doing this shall be your warrant.

Given under my hand at this day of
in the year 19 .

(Signed)

Stipendiary Justice of the Peace.

^{*} If hard labour is ordered.

No. 27.

AN ORDINANCE relating to Prisons.

- Short title.** 1. This Ordinance may be cited as the Prisons Ordinance.
- Prisons of Colony.** 2. The Prisons of the Colony shall consist of :
1. The Royal Gaol in Port-of-Spain.
 2. The Female Prison at St. James' Barracks, Carrera's Island, and any other Convict Dépôt proclaimed to be such by the Governor in Council under Section 4 hereof.
 3. District Prisons proclaimed to be such by the Governor in Council under Section 5 hereof.
 4. Labour yards and other places appointed under the provisions of Section 6 hereof.
- Interpretation.** 3. In the following sections hereof the term "Prison" includes any of the places enumerated in Section 2 hereof, and the term "Governor in Council" means Governor in Executive Council, and the term "Prisoner" includes every inmate of any prison detained therein under sentence or conviction for any offence or under committal or remand pending trial or preliminary investigation on a charge of any offence.
- Convict dépôts.** 4. It shall be lawful for the Governor in Council by proclamation to appoint any place as a Convict Dépôt.
- District Prisons.** 5. It shall be lawful for the Governor in Council by proclamation to declare any Police Station or part of any such Police Station or other suitable place to be a District Prison.
- Any person sentenced on summary conviction to imprisonment with or without hard labour for any term not exceeding one month may be imprisoned at the nearest District Prison.
- Labour yards.** 6. It shall be lawful for the Governor in Council by proclamation to appoint such places without the precincts of any prison as he may see fit as labour yards for the employment at hard labour during working hours of prisoners sentenced to imprisonment with hard labour.
- Any person convicted of a misdemeanour who may have been sentenced to imprisonment with hard labour may lawfully be kept and worked at hard labour on any highway,

road, street or public place or in any other place beyond the precincts of the Royal Gaol which the Governor may from time to time by writing under his hand authorise and appoint.

7. It shall be lawful for the Superintendent of Prisons to transfer prisoners from any prison to any other prison as in his discretion may be necessary. Transfer of prisoners.

8. Prisoners committed to prison in Tobago for any period not exceeding six months may be detained at the prison in Scarborough, and if sentenced to hard labour may be employed in the said prison or in such places beyond the precincts of such prison and at such work as may be sanctioned by the Prison Rules. Tobago prisoners.

9. Any person who shall bring in or carry out or endeavour to bring in or carry out or knowingly allow to be brought into or carried out of any prison any prohibited article shall be liable on summary conviction to a fine not exceeding £20 or in default of payment to imprisonment with or without hard labour for any period not exceeding three months. Prohibited articles.

It shall be lawful for the Superintendent of Prisons or any Warder or Police Constable to apprehend without warrant any person committing an offence against the provisions of this Ordinance.

10. Any person landing or attempting to land on the Island of Carrera without the authority of the Governor, Superintendent of Prisons or Officer in charge may be arrested by any Officer in charge or Prison Warder and be by him handed over to the Police, and shall be liable on summary conviction to a fine of £5 or three months imprisonment with or without hard labour. Landing at Carrera.

11. Any person aiding the escape of any prisoner from any prison or from the custody of any person in charge of any such prisoner shall be liable on summary conviction to pay a fine not exceeding £10 or in default of payment to six months imprisonment with or without hard labour. Aiding escape.

Provided always that nothing herein contained shall be deemed to affect the powers of the Supreme Court on indictment for such offence under the provisions of the Criminal No. 22. Offences Ordinance.

12. Any unauthorised person holding intercourse or interfering with a prisoner while in any prison or public place Interfering with prisoner.

shall be liable on summary conviction to a fine not exceeding £5 and in default of payment to three months imprisonment with or without hard labour.

Use of Fire-
arms by
officers.

13. For the purpose of preventing escape or violent assault, and for the purpose of preventing or suppressing mutiny, any officer having charge of any prisoners may use fire-arms or any other mode of force, and shall not be responsible for the consequences of such use, if necessary for any of the purposes aforesaid.

No. 28.

AN ORDINANCE relating to the removal of Colonial Prisoners.

1. This Ordinance may be cited as the Colonial Prisoners Short title.
Removal Ordinance.

2. If any person who is a native of or ordinarily resident in this Colony shall commit any offence in any place out of His Majesty's Dominions in which His Majesty exercises jurisdiction over British Subjects, and shall be either convicted of the said offence or acquitted thereof on the ground of insanity and shall be sent to any British Colony or other place to undergo his sentence or to be confined as a Criminal Lunatic under the powers contained in the Foreign Jurisdiction Act, 1890, (53 and 54 Vic. c. 37) or in the Colonial Prisoners Removal Act, 1884, (47 and 48 Vic. c. 31) or in any Act of the Imperial Legislature amending either of the aforesaid Acts, it shall be lawful for the Governor to order the payment from and out of the General Revenue of the Colony of the expenses (so far as they cannot be met out of the effects of such person under order of the Court so convicting or acquitting) of the removal of such person to the Colony or place in which he is to undergo his sentence or be confined as a criminal lunatic, and of his maintenance during his imprisonment or confinement and of any other expenses incident to his conviction or acquittal on the ground of insanity. Expenses of removal, etc., of criminals or criminal lunatics.

3. It shall be lawful for the Governor in Executive Rules.
Council from time to time to make Regulations for the more effectual working of this Ordinance.

No. 29.

AN ORDINANCE relating to Reformatory Schools.

- Short title.** 1. This Ordinance may be cited as the Reformatory Schools Ordinance.
- Interpretation.** 2. In this Ordinance,
The term "School" means a Reformatory School established under this Ordinance.
The term "Inspector" means an Inspector of Reformatory Schools appointed under this Ordinance.
The term "Managers" shall include any person or persons having the management or control of any Reformatory School.
- Establishment of schools.** 3. It shall be lawful for the Governor from and out of the public funds of the Colony to appropriate and set apart such sums of money as he may, with the advice and consent of the Legislative Council, think fit, to be applied towards—
(a.) The purchase of any land required for the site of any school.
(b.) The erection, building, establishment, maintenance, alteration or enlargement of any school.
(c.) The upkeep of any school and the expenses incidental thereto.
(d.) The maintenance and support of youthful offenders detained in any school.
- Appointment of officers.** 4. It shall be lawful for the Governor for any school to be established under this Ordinance to appoint or to approve the appointment of an Inspector, Managers, a Medical attendant, and such officers and servants as may be deemed necessary, and such appointments and approvals from time to time to revoke.
Every Inspector shall be charged with the general superintendence of all schools established under this Ordinance.
- Land for site of school.** 5. It shall be lawful for the Governor to convey, lease or otherwise assure any lands acquired for the site of any school to such person or persons as Managers, upon such terms and subject to such conditions and stipulations relative to reconveyance, forfeiture, resumption of such lands or otherwise as to him shall seem fit and proper.

6. All buildings, and all additions, alterations and enlargements to any school established under this Ordinance shall be subject to the supervision of the Director of Public Works.

Supervision of
buildings.

7. The Governor may, on application for the establishment of any institution under this Ordinance as a school, direct the Inspector to examine and report to him upon the condition of such institution and its fitness for the reception of youthful offenders to be sent and detained there under the provisions of this Ordinance.

Report on
fitness of
intended
school.

Any such institution as shall appear to the satisfaction of the Governor and shall be certified under his hand and the Seal of the Colony to be useful and efficient for the purpose, shall be a Reformatory School under this Ordinance.

8. It shall be the duty of any Inspector from time to time to visit and inspect any school, and upon his report that such school is not satisfactorily managed or has ceased to be used as a school, the Governor may withdraw his Certificate, and shall notify such withdrawal under his hand to the Managers of any such school, and thereupon the same shall forthwith cease to be a school. Upon the withdrawal of any such Certificate as aforesaid, it shall be lawful for the Governor or any person authorized by him to make entry upon and resume possession of all lands which may have been conveyed, leased or otherwise assured to any person in conformity with Section 5 of this Ordinance and of all buildings and erections thereon. Such entry upon and resumption of any such lands and buildings by the Governor or any person so authorized by him shall operate as a re-conveyance or surrender thereof as the case may be to His Majesty the King by the person to whom the same shall have been conveyed, leased or otherwise assured, and such lands and buildings shall from thenceforth become absolutely vested in His Majesty.

Duty of
Inspector.

9. The Managers of any school may give notice in writing to the Governor of their intention to resign the Certificate of such school, and at the expiration of six months from the receipt of such notice the school shall cease to be a school within the meaning of this Ordinance.

Resignation of
school by
Managers.

10. Notice of the withdrawal or resignation of such Certificate shall be published in the *Royal Gazette*.

Publication of
Notice of
withdrawal.

Publication of
Notice of grant
of Certificate.

11. Whenever the Governor shall at any time under the provisions of Section 7 grant a Certificate, notice thereof shall be published in the *Royal Gazette*, and such publication shall be sufficient evidence of the fact of such school having been certified and shall be a sufficient warrant for committal thereto by any Judge or Stipendiary Justice before whom any youthful offender shall have been convicted.

Discharge or
transfer on
withdrawal or
resignation of
Certificate.

12. When the withdrawal or resignation of the Certificate of a school takes effect, the youthful offenders detained therein shall by order of the Governor either be discharged or transferred to some other certified school.

Offender
between 10 and
16 to be sent
to school.

13. Whenever any youthful offender above the age of ten and under the age of sixteen years, charged before the Supreme Court or before any Stipendiary Justice of the Peace, is convicted of any offence punishable by imprisonment for any period exceeding one calendar month such Court or Stipendiary Justice of the Peace instead of sentencing such offender to imprisonment may order him to be sent to a school and to be there detained for a period of not less than two nor more than five years.

Children
begging, &c.,
may be sent to
school.

14. The Inspector, the Inspector-General of Police, or any Inspector or Non-commissioned Officer of Police, or any Warden may without warrant apprehend and immediately upon such apprehension bring before a Stipendiary Justice of the Peace any child apparently above the age of ten and under the age of sixteen years who comes under any of the following descriptions:—

- (a.) Who is found begging or receiving alms.
- (b.) Who is found wandering and not having any settled place of abode or proper guardianship or visible means of subsistence.
- (c.) Who frequents the company of reputed thieves.
- (d.) Who lodges, lives or resides with common prostitutes, or in a house resided in or frequented by prostitutes for the purpose of prostitution.
- (e.) Who frequents the company of common prostitutes.

The Stipendiary Justice of the Peace before whom a child is brought under this section, if satisfied that the child is above the age of ten and under the age of sixteen years and within one of these descriptions, and that it is expedient to

deal with him under this Ordinance, may instead of ordering him to be sent to an Industrial school in manner provided by the Industrial Schools Ordinance, order him to be sent *No. 30.* to a Reformatory school.

A certified copy of such order under the hand of the Stipendiary Justice of the Peace making the same shall within seven days be transmitted to the Governor.

The Governor may upon such order, if he shall think fit to do so, direct that such child be transferred to an Industrial school.

Provided that if he shall see fit it shall be lawful for the Governor at any time after the date of such order by writing under his hand to disallow such order, and from the date of such disallowance such order shall be of no force or effect, and any child who shall be detained thereunder shall forthwith be discharged from such Reformatory.

15. The order of the Court or Judge or of a Stipendiary Justice of the Peace sending an offender to a school (in this Ordinance referred to as "The Order of Detention") shall be in writing, and the reception of an offender by the Managers of a school shall be deemed to be an undertaking by them while paid in such manner as the Governor may by Regulations made under the authority of this Ordinance prescribe, to teach, train, clothe and feed such offender during the whole period for which he is liable to be detained in such school, or until the withdrawal or resignation of the certificate of the school takes effect. Order of detention.

The order shall specify the age of and the term during which the child is to be detained, but in no case shall the period of detention extend beyond the period when the offender shall have attained the age of eighteen years.

16. In choosing a school, the Court or Stipendiary Justice of the Peace shall endeavour to ascertain the religious persuasion to which the youthful offender belongs, and so far as is possible a selection shall be made of a school conducted in accordance with the religious persuasion to which the youthful offender appears to the Court or Stipendiary Justice of the Peace to belong. Choice of schools by Court or Justice.

17. In all cases in which the religion of the parents or guardians of any youthful offender is unknown, such offender Mode of choice where religion unknown.

shall be deemed to belong to that religious persuasion in which he shall appear to have been baptized, or of which he shall profess to be a follower. .

Where no school conducted according to religion of offender.

18. If there be no school in the Colony conducted in accordance with the religious persuasion of any youthful offender, and the Court or Stipendiary Justice of the Peace shall by reason thereof be unable to choose a school, then and in such case such youthful offender shall be sent to such school as the Governor may direct, or as may be prescribed for such cases by rules made under the authority of this Ordinance.

Objection to school selected.

19. The parent, step-parent or guardian, or if there be no parent, step-parent or guardian, then the Protector of Immigrants or the Sponsor or nearest adult relative of any youthful offender directed to be sent to a school which is not conducted according to the religious persuasion of such youthful offender, may claim by notice in writing addressed to the Managers of such school the exemption of such youthful offender from attending prayer, or religious worship, or from any lesson or series of lessons on a religious subject, and such youthful offender shall be exempted accordingly.

Manager to submit notice claiming exemption to Inspector.

20. It shall be the duty of the Managers to submit such Notice to the Inspector for his information and guidance, and the Managers shall in every such case make proper provision for enabling any such youthful offender to attend Divine worship at his church or place of worship and to receive religious instruction according to the doctrines or formularies of the denomination, church or sect to which he may belong.

Inspector to report to Governor when exemptions are not observed.

21. If the Managers of any school shall permit or suffer any youthful offender to attend prayer or religious worship, or to be taught any particular religious doctrine from the attendance at which, or from the teaching of which any exemption has been claimed by notice as in Section 19 provided, it shall be the duty of the Inspector fully to make enquiry into the matter and to report thereon to the Governor.

Governor on report may transfer offender.

22. The Governor may on such report, if he shall think fit, order such youthful offender to be transferred to some other school.

Appeal.

23. Whenever any order shall be made by a Stipendiary Justice under this Ordinance, it shall be lawful for any

offender aggrieved by such order or his parent or guardian to appeal therefrom under the Summary Conviction Offences *No. 1.* (Procedure) Ordinance.

24. The Order of detention shall be forwarded to the Managers of the school with the offender, and shall be a sufficient warrant for his conveyance thither and his detention therein. Order of detention to be sent to Managers.

25. After any youthful offender shall have been detained in a school for a period of twelve months and shall have conducted himself to the satisfaction of the Manager and of the Inspector, the Governor may, with the consent of such offender, bind him apprentice to any trade, calling or service for such term, in such form and on such conditions as to the Governor shall seem fit, notwithstanding that the period of detention to which he may have been sentenced may not have expired, and notwithstanding that the term for which he may be bound shall extend beyond the period for which he was ordered to be detained in such school; and every such binding shall be valid and effectual to all intents and purposes, and the person to whom such youthful offender shall be bound apprentice shall provide him with lodging, food and clothing, and with medical attendance and care when ill. Power to apprentice.

26. No youthful offender shall be bound apprentice for a longer period than five years or beyond the time when he shall attain the age of twenty-one years. Limit of term of apprenticeship.

27. If any youthful offender shall while an inmate of any school commit an offence punishable on summary conviction or shall wilfully neglect or refuse to conform to the rules of any school in which he may be detained he may at the discretion of and upon conviction thereof before the Inspector be imprisoned with hard labour in the Royal Gaol for any period not exceeding three months, and at the expiration of the term of such imprisonment such offender shall be taken back to the school and there detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to prison. Offences by inmates of Schools.

It shall be the duty of a Manager to notify the Inspector of the commission of any offence under this section.

28. If any youthful offender detained in a school shall escape therefrom before the expiration of the term of his Escape from School.

sentence it shall be lawful for any officer of such school or any Police constable without warrant to apprehend and take such offender to the school from which he escaped; and such offender shall be liable on conviction before the Inspector to be imprisoned in the Royal Gaol with hard labour for any term not exceeding three months, and at the expiration of such imprisonment such offender shall be taken back to the school from which he escaped there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his escape.

Apprentice
escaping.

29. Any youthful offender escaping from the person to whom he is apprenticed in pursuance of Section 25 of this Ordinance, or refusing to return to the school at the expiration or sooner determination of the term of his apprenticeship, shall be liable on conviction before the Inspector to the same penalty as if he had committed an offence under Section 28 hereof.

Governor may
transfer
children to
Hospital.

30. Whenever the Medical Attendant of an Industrial or Reformatory School shall certify under his hand that it is necessary that any child ordered to be detained in an Industrial or Reformatory School should be removed therefrom for medical treatment and care to a hospital or asylum, it shall be lawful for the Governor by writing under his hand to order the transfer of any such child to any such hospital or asylum upon such terms and conditions and for such period as to him shall seem fit and proper.

Return to
Industrial or
Reformatory
School.

When the Chief Medical Attendant of any hospital or asylum shall certify under his hand to the Governor that any child who shall have been transferred as last aforesaid to a hospital or asylum is in a fit state to be discharged therefrom, such child shall be sent back to the Industrial or Reformatory School as the case may be from whence he was transferred, there to be detained until completion of his unexpired term of detention in such school.

Powers and
indemnities of
officer of
school.

31. Every officer of a school shall for the purpose of conveying any youthful offender sentenced to detention under this Ordinance to or from any school, or in case of an escape, for the purpose of bringing such offender back to any school, have respectively all the powers, authorities, protection, privileges and indemnities of a Police constable while acting in the execution of his duty.

32. Every person who shall commit any of the following offences:— Aiding escape.

- (a.) Who shall assist any offender detained in a school to escape therefrom, or from any person with whom he may be apprenticed or in whose lawful charge such offender may be;
- (b.) Who shall induce any offender to escape or attempt to escape from any school, or from any person with whom he may be apprenticed or in whose lawful charge such youthful offender may be;
- (c.) Who shall harbour or conceal any youthful offender who has escaped from a school, or from any person with whom he may be apprenticed or in whose lawful charge such youthful offender may be;

shall on summary conviction thereof be liable to be fined a sum not exceeding Thirty Pounds, or be imprisoned with or without hard labour for any period not exceeding three months.

33. The parent or other person legally liable to maintain a child ordered to be detained in a school under this Ordinance shall, if able, contribute for his maintenance and training therein a sum not exceeding four shillings per week. Maintenance. Such contribution shall be paid to the Managers.

34. On the complaint of the Managers or any person authorized by them at any time during the detention of a child in a school, any Stipendiary Justice may, after summoning the parent or other person liable as aforesaid, examine into his ability to maintain the child, and may make an order on such parent or other person for the payment to such Managers of such weekly sum not exceeding the rate specified in Section 33 as to him shall seem reasonable. Magistrate may enquire as to ability of parent to maintain.

Every such order may specify the time during which the payment is to be made, or may direct the payment to be made until further order.

All sums of money ordered to be paid under this section may be recovered summarily by distress and sale of the goods and chattels of the person upon whom such order is made, and in case no sufficient distress is found, such person may be imprisoned with or without hard labour for any term not exceeding two months.

Application of
moneys
received by
Managers.

35. The Managers of schools shall on the first day of every month pay all sums received by them for the maintenance of inmates during the preceding month to the Receiver-General.

Rules.

36. The Governor may for all or any of the purposes following from time to time, with the approval and consent of the Legislative Council, make Rules, and such Rules may at any time alter, modify or revoke, that is to say :—

- (a.) As to the management and discipline of any school and to prescribe the punishment for all offences against the Rules or discipline of any School ;
- (b.) To determine the sums or allowances to be from time to time paid or made for the upkeep and the expenses incidental thereto of any school ;
- (c.) As to the allowances to be from time to time made for the maintenance and support of offenders detained in any school ;
- (d.) As to all such other matters and things as may appear necessary or expedient for effectually carrying into operation the provisions of this Ordinance.

Provided always that no offender who shall be punished in pursuance of such Rules shall be liable to be punished under Section 27 of this Ordinance.

All such Rules when so approved shall have the same force and effect as if they were contained in this Ordinance.

All Rules made under this Ordinance shall be published in the *Royal Gazette*.

Evidence.

37. The following Rules shall prevail with respect to evidence under this Ordinance :

- (a.) Production of a copy of the *Royal Gazette* containing notice of the grant or of the withdrawal of a Certificate to or from a school or of the resignation of any such Certificate shall be sufficient evidence of the fact of the publication of such notice and also of the fact of a Certificate having been duly granted to or withdrawn from the school named in the notice or resigned by the Managers thereof.

- (b.) The grant of a Certificate to a certified school may also be proved by the production of the Certificate itself or of a copy of the same purporting to be signed by the Inspector.
- (c.) Production of the Warrant, or other document in pursuance of which a youthful offender is directed to be sent to a school, with a statement endorsed thereon or annexed thereto purporting to be signed by the Superintendent or other person in charge of the school, to the effect that the offender therein named was duly received into, and is at the date of the signing thereof detained in the school, or has been otherwise dealt with according to law shall in all proceedings relating to such offender be evidence of the identity of and of the conviction and subsequent detention of the offender named in the Warrant or other document.
- (d.) Production of a copy of the *Royal Gazette* containing the Rules purporting to be made under the authority of this Ordinance shall be evidence of such Rules in all legal proceedings whatever.

38. Any notice may be served on the Managers of a school by delivering the same personally to any one of them, or by sending it by post or otherwise in a letter addressed to them or any of them at the school, or at the usual or last known place of abode of any of the Managers or of their Secretary.

Service of
Notices.

39. The Forms in the Schedule to this Ordinance annexed, or Forms to the like effect, may be used in the cases to which they refer, with such variations as circumstances may require; but no Summons, Notice or Order made for the purpose of carrying into effect the provisions of this Ordinance shall be invalidated by reason of any formal defect therein.

Forms.

40. All offences under this Ordinance may be heard and determined by the Inspector, if he shall see fit, without issuing any summons to the party complained of, so always that the statement of the party complaining shall be taken on oath, and that such Inspector, before making any final order on such complaint, shall give to the party complained against an opportunity of answering the same, and if he shall see fit, or if required by the person complained against, shall take the evidence on oath of such party, and shall also

Hearing of
complaints.

examine on oath such witnesses as either party may produce, and which oaths such Inspector is hereby authorized to administer, and a report of every conviction under the provisions hereof shall be forwarded to the Governor, and sentence shall not be carried out without the sanction of the Governor.

Procedure.
No. 1.

41. The form and manner of procedure given by the Summary Conviction Offences (Procedure) Ordinance shall apply to proceedings under this Ordinance.

Construction.
No. 30.

42. All the provisions of the Industrial Schools Ordinance shall apply to Reformatory Schools established under this Ordinance and youthful offenders detained therein, in like manner and in all respects as the said Ordinance applies to Industrial Schools and youthful offenders detained therein, and the said Industrial Schools Ordinance shall be read and construed as one with this Ordinance.

SCHEDULE.

A.

Order sending Child to Reformatory School.

BE IT REMEMBERED that on the _____ day of _____ in pursuance of "The Reformatory Schools Ordinance," I, _____ His Majesty's Stipendiary Justice of the Peace for the _____ of _____ did order that A. B. of _____ under the age of sixteen years, to wit, of the age of _____ years (whose religious persuasion appears to me to be _____) be sent to the _____ Reformatory School (if the Stipendiary Justice of the Peace shall not name the school to which such offender is to be sent, insert "such school as may hereafter, and before the expiration of the term of imprisonment to which the said A. B. has been sentenced, be directed by the Governor") at _____ and that he be detained there during.

(Sgd.)

J. H.

Stipendiary Justice.

B.

Complaint for enforcing Contribution from Parent, &c.

The complaint of the Managers of the _____ Reformatory School (or as the case may be) made to me, the undersigned, His Majesty's Stipendiary Justice of the Peace for the said _____ of _____ this day of _____ at _____ in the same _____, who says, that one A. B. of (*) the age of _____ years, or thereabouts, is now detained in the _____ Reformatory School at _____ in the _____ of _____ under "The Reformatory Schools Ordinance," and

has been duly ordered and directed to be detained therein until the
 day of and that one C.D., dwelling in the
 of in the of is the parent (or step-parent, etc.,)
 of the said A. B. and is of sufficient ability to contribute to the support
 and maintenance of the said A. B. (*) The said complainant therefore
 prays that the said C. D. may be summoned to show cause why an order
 should not be made on him so to contribute.

C.D.

Before me,

J.H.

Stipendiary Justice.

C.

Summons to Parent, &c.

To A. B. of labourer.

WHEREAS information has this day been laid (or complaint has this
 day been made) before the undersigned, His Majesty's Stipendiary Justice
 of the Peace in and for the said of for that you (here
 state shortly the matter of the information or complaint): These are
 therefore to command you, in His Majesty's name, to be and appear on
 at o'clock in the forenoon at before such
 Stipendiary Justice of the Peace for the said to answer to the
 said information (or complaint), and to be further dealt with according to
 Law.

Given under my hand this day of in the year of
 Our Lord one thousand nine hundred at in the
 aforesaid.

J.H.

Stipendiary Justice.

D.

Order on Parent, &c., to contribute a Weekly Sum.

BE IT REMEMBERED that on this day of at
 in the said of a certain complaint of the Managers of
 the Reformatory School (or as the case may be), for that one
 A.B., of, etc. (stating the cause of complaint as in the Form (B) between
 the asterisks (*) (*) was duly heard by and before me, the undersigned,
 His Majesty's Stipendiary Justice of the Peace in and for the said
 of (in the presence and hearing of the said C.D.; if so, or, the
 said C.D. not appearing to the summons duly issued and served in this
 behalf); and I, having duly examined into the ability of the said C.D.,
 and on consideration of all the circumstances of the case, did order the said
 C.D. to pay to the Managers of the said School the sum of shillings
 per week from the date of this order until the day
 of the same to be paid at the expiration of each
 [fourteen, or as the case may be,] days.

Given under my hand the day and year first above-mentioned
 at in the aforesaid.

J. H.

Stipendiary Justice.

EL

Distress Warrant for Amount in arrear.

To _____ of _____ and to all other Peace Officers of the _____
said _____ of _____

WHEREAS on the hearing of a complaint made by the Managers of the Reformatory School (or as the case may be), that A. B. of &c. [stating the cause of complaint as in the form (B) between the asterisks (*) (*)], an order was made on the _____ day of _____ by me, the undersigned, His Majesty's Stipendiary Justice of the Peace in and for the said _____ of _____ against the said C. D. to pay to the Managers of the said School the sum of _____ per week from the date of the said order until the _____ day of _____ the same to be paid at the expiration of each [fourteen] days (or as the case may be) (*): And Whereas there is due upon the said order the sum of _____ being for [three] periods of [fourteen] days each, and default has been made for the space of fourteen days:

These are therefore to command you in His Majesty's name, forthwith to make distress of the goods and chattels of the said C. D. and if within the space of [five] days next after the making of such distress the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, is not paid, that then you do sell the said goods and chattels so by you distrained and do pay the money arising from such sale to the Clerk of the Peace for the of that he may pay and apply the same as by Law directed, and may render the overplus (if any), on demand, to the said C.D., and if no such distress can be found, then that you certify the same to me, to the end that such proceedings may be had therein as the Law requires.

Given under my hand this day of
at in the aforesaid.

J. H.

Stipendiary Justice.

F.

Commitment in Default of Distress.

To and to the Keeper of the Royal Gaol.

WHEREAS [&c., as in the Form (E) to the single asterisk (*), and then thus]: And Whereas afterwards on the _____ day of _____ last, I, the undersigned, His Majesty's Stipendiary Justice of the Peace in and for the said _____ of _____ issued a warrant to _____ aforesaid commanding him to levy the sum of _____ due upon the said recited orders being for [three] periods of [fourteen] days by distress and sale of the goods and chattels of the said C. D. And Whereas a return has this day been made to me, the said Stipendiary Justice in and for the said _____ of _____ that no sufficient goods of the said C. D. can be found :

These are therefore to command you the said
to take the said C.D. and him safely to convey to the Royal Gaol aforesaid,
and there deliver him to the Keeper thereof, together with this precept :
And I do hereby command you the said Keeper of the Royal Gaol to receive
the said C. D. into your custody in the said Royal Gaol there to imprison
him for the term of _____, unless the said sum, and all costs
and charges of the said distress, and of the commitment and conveying of
the said C. D. to the said Royal Gaol, amounting to the further sum of
_____ shall be sooner paid unto you the said Keeper ; and
for your so doing this shall be your sufficient warrant.

Given under my hand this _____ day _____ in
the year of Our Lord _____ at _____ in
the _____ aforesaid.

J. H.
Stipendiary Justice.

No. 30.

AN ORDINANCE relating to Industrial Schools.

- Short title.** 1. This Ordinance may be cited as the Industrial Schools Ordinance.
- Interpretation.** 2. In this Ordinance
- The term "Government Industrial School" means an industrial school established by the Governor under this Ordinance; and
- The term "Private Industrial School" means any industrial school within the meaning of this Ordinance not being a Government industrial school.
- Government industrial schools.** 3. It shall be lawful for the Governor to establish and maintain industrial schools for the reception of boys and girls respectively. Notice of the establishment of such schools shall be published in the *Royal Gazette*, and thereupon such schools shall be deemed to be industrial schools within the meaning of this Ordinance, and the master, matron, or other person having the management of any such school shall be deemed the manager thereof for the purposes of this Ordinance. All costs and charges incurred in the establishment and maintenance of such schools shall be paid by the Receiver-General out of such funds as may by law be from time to time appropriated for that purpose.
- Private industrial schools.** 4. Schools not being Government industrial schools in which industrial training is provided and children are lodged, clothed, and fed as well as taught, shall, provided that they be certified in manner hereinafter mentioned, be deemed to be private industrial schools within the meaning of this Ordinance, and the master, matron or other person having the management of any such school shall be deemed the manager thereof for the purposes of this Ordinance.
- Alteration of private school.** 5. No substantial addition or alteration shall be made to or in the buildings of any private industrial school without the approval in writing of the Governor.
- Inspector.** 6. It shall be lawful for the Governor from time to time to appoint an Inspector of Industrial Schools, and at any time to revoke any such appointment.
- Report on private schools.** 7. The Governor may, on the application of the managers of any private industrial school, direct the Inspector of

Industrial Schools to examine into the condition of the school and its fitness for the reception of children to be sent there under this Ordinance and to report to him thereon, and the said Inspector shall examine and report accordingly.

If satisfied with the report of the said Inspector the Governor may by writing under his hand certify that the school is fit for the reception of children to be sent there under this Ordinance, and thereupon it shall be lawful to send children under this Ordinance to such school.

Notice of each certificate shall be published in the *Royal Gazette*, and a copy of the *Gazette* containing the notice shall be conclusive evidence of such certificate, which may also be proved by a writing purporting to be a copy of the certificate, and to be attested as such by the Inspector of Industrial Schools.

8. Every industrial school shall be inspected by the ^{Inspection.} Inspector of Industrial Schools at least four times in each year; and in the month of January of each year the said Inspector shall make a report to the Governor of the number of children received into or discharged from the school during the preceding year, the number remaining in the school, and the conduct of the children during the year.

9. The Inspector of Industrial Schools, the Inspector-General of Police or any Inspector of Police, the Keeper of the Royal Gaol, or any Warden, may bring before a ^{Sending children to industrial school.} Stipendiary Justice of the Peace any child apparently under the age of fourteen years, who comes under any of the following descriptions, namely:—

1. Who is found begging or receiving alms;
2. Who is found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence;
3. Who is found destitute either being an orphan or having a surviving parent who is undergoing imprisonment; or
4. Who frequents the company of reputed thieves.

The Stipendiary Justice before whom a child is brought under this section, if satisfied that the child is under the age of fourteen years, and within one of these descriptions, and that it is expedient to deal with him under this Ordinance, may order him to be sent to an Industrial School;

but such order shall have no effect unless and until it is approved by the Governor.

And where any woman is convicted of a crime any children of such woman under the age of fourteen years who may be under her care and control at the time of her conviction and who have no visible means of subsistence or are without proper guardianship shall also be deemed to be children to which the previous provisions of this Ordinance apply, and the Court by whom such woman is convicted or a Stipendiary Justice of the Peace shall have the same power, subject to the approval of the Governor, of ordering such children to be sent to an Industrial School, which is vested in a Stipendiary Justice of the Peace by this section in respect of the children herein previously described: Provided always that except in the case of a child of a parent convicted for the second time of a crime, any order of detention in an Industrial School made in respect of a destitute child whose parent shall be imprisoned shall not specify a longer term than such time as such parent shall remain in prison, anything in Section 11 hereof to the contrary notwithstanding.

Detention of
child pending
approval of
order.

10. Pending any approval by the Governor required by this Ordinance it shall be lawful on the order of the Stipendiary Justice to detain any child respecting whom any order shall have been made by him.

Order of
detention.

11. The order of a Stipendiary Justice sending a child to an industrial school (in this Ordinance referred to as the order of detention) shall be in writing, and signed by the Justice, and shall specify the name of the school. The school shall be either a Government industrial school, or a private industrial school, the managers of which are willing to receive the child; and the reception of the child by the managers of such last-mentioned school shall be deemed to be an undertaking by them, whilst paid as hereinafter provided, to teach, train, clothe, lodge and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school takes effect.

The school named in the order shall be presumed to be an industrial school until the contrary is shown. It need not be situate within the district of the Stipendiary Justice making the order.

The order shall specify the term for which the child is to be detained in the school, being such term as the Stipendiary Justice deems proper for the teaching and training of the child, but not in any case extending beyond the time when the child will attain the age of sixteen years.

In selecting an industrial school, regard shall be had as much as possible to the religious persuasion of the parents or guardians of the child, or when that is unknown, to the religious persuasion in which the child has been baptized or to which he professes to belong.

12. The Governor may by order in writing under his hand direct any child to be transferred from one industrial school to another: Provided that where the school to which any child is directed to be transferred is a private industrial school the order shall have no effect unless the managers of such private industrial school signify their willingness to receive the child.

Transfer of child.

13. The Governor may by order in writing under his hand order any child sentenced to be detained in a reformatory school to be detained in any industrial school for the whole or such part as he thinks fit of the term during which such child is sentenced to be detained in a reformatory school: Provided that where the school to which any child is directed to be transferred is a private industrial school the Order shall have no effect unless the managers of such private industrial school signify their willingness to receive the child.

Substitution of industrial school for reformatory.

14. If the parent, step-parent or guardian, or if there be no parent, step-parent or guardian, then the god-parent or nearest adult relative of a child sent or about to be sent to an industrial school which is not conducted in accordance with the religious persuasion which the child professes, states to the Stipendiary Justice by whom the order of detention has been or is about to be made that he objects to the child being sent to or detained in the school specified or about to be specified in the order, and names another industrial school in the Colony certified under this Ordinance which is conducted in accordance with the religious persuasion which the child professes, and signifies his desire that the child be sent thereto, the Stipendiary Justice shall upon proof of such child's religious persuasion, comply with the request of the applicant: Provided—

Power to object to school selected by Justice.

1. That the application be made before the child has

been sent to an industrial school, or within thirty days after his arrival at such school ; and

2. That the applicant show to the satisfaction of the Stipendiary Justice that the managers of the school named by him are willing to receive the child.

Effect of order
of detention.

15. The order of detention shall be forwarded to the managers of the school with the child, and shall be a sufficient warrant for the conveyance of the child thither and his detention there.

Power to
apprentice.

16. The managers of an industrial school may, if a child has conducted himself well for at least twelve months at the school, bind such child, provided he is over thirteen years of age and consents thereto, apprentice to any trade, calling, or service, for such term, in such form, and under such conditions as are approved of by the Governor, notwithstanding that the period of detention of such child has not expired, and every such binding shall be valid and effectual to all intents : Provided that no such term of apprenticeship shall continue beyond the day when the apprentice attains the age of eighteen years.

Managers may
license child to
live with
trustworthy
person.

17. The managers of an industrial school may at any time after the expiration of twelve months of the period of detention allotted to a child and with the approval of the Governor by license under their hands permit such child to live with any trustworthy and respectable person, named in the license, who is willing to receive and take charge of him ; and may in such license, with such approval as afore-said, insert any such conditions as they think fit as to the employment of the child to whom such license relates.

Limit and
renewal of
license.

18. Any license granted under the preceding section shall not be in force more than three months but may at any time before the expiration of such three months be renewed, with the approval of the Governor, for a further period not exceeding three months, to commence from the expiration of the previous period of three months and so from time to time until the period of detention of the child to whom such license relates has expired.

Managers
may revoke
license.

19. Any such license may with the approval of the Governor be revoked by the managers of the school by writing under their hands at any time before the expiration of

the period for which the same would otherwise remain in force and thereupon the child to whom the license related may be required by the managers by writing under their hands to return to the school.

20. The time during which a child is absent from the school in pursuance of a license granted or renewed under Sections 17 and 18 hereof, shall (except where such license has been forfeited by his misconduct), be deemed to be part of the time of his detention in the school and at the expiration of the time fixed by his license or renewed license he shall be taken back to the school.

Period of license to count as part of detention.

21. Any child escaping from the person with whom he is placed in pursuance of Section 17 or refusing to return to the school at the expiration of the time fixed by his license or renewed license or when required to do so on the revocation of his license shall be liable to the same penalty as if he had escaped from the school itself.

Escaping from person with whom placed, or refusing to return to school at expiration of license.

22. The managers of an industrial school may from time to time make rules for the management and discipline of the school; but such rules shall not be enforced until they have been approved in writing by the Governor; and rules so approved shall not be altered without the like approval. A printed copy of rules purporting to be the rules of a school so approved, and to be signed by the Inspector of Industrial Schools, shall be evidence of the rules of the school.

Rules.

23. A certificate purporting to be signed by one of the managers of an industrial school, or their Secretary, or by the Superintendent or other person in charge of the school, to the effect that the child therein named was duly received into and is at the time of the signing thereof detained in the school, or has been duly discharged or removed therefrom, or otherwise disposed of according to law, shall be evidence of the matters therein stated.

Effect of certificate of managers, &c.

24. If a child sent to an industrial school, and while ordered to be detained there, wilfully neglects or wilfully refuses to conform to the rules of the school, or quits the school without leave, he shall, on summary conviction thereof be liable to be sent back to the same school, there to be detained during a period equal to so much of his term of detention as remains unexpired at the time of committing the offence, or the Stipendiary Justice may order him to be

Disobedience to rules and escaping from school.

sent to a reformatory school, there to be detained during an equal period; and every child absent from an industrial school before the expiry of his period of detention may be arrested by any constable without a warrant.

Aiding
escape and
harbouring.

25. If any person does any of the following things (that is to say) :—

1. Knowingly assists, directly or indirectly, a child liable to be detained in an industrial school to escape from the school; or
2. Directly or indirectly induces such a child so to escape; or
3. Knowingly harbours or conceals a child who has so escaped, or prevents him from returning to school, or knowingly assists in so doing;

every such person shall be guilty of an offence against this Ordinance, and shall, on summary conviction thereof be liable to a penalty not exceeding ten pounds, or, at the discretion of the Stipendiary Justice, to be imprisoned for any term not exceeding two months, with or without hard labour.

Detention of
person over
sixteen.

26. A person who has attained the age of sixteen years shall not be detained in an industrial school, except with his own consent in writing, or except for the purpose of making up any period during which he is ordered to be detained after conviction for an offence against this Ordinance.

Discharge
from
school.

27. The Governor may, at any time, order any child to be discharged from an industrial school, either absolutely or on such conditions as the Governor approves.

Withdrawing
certificate of
school.

28. The Governor, if dissatisfied with the condition of any private industrial school, may at any time, by notice under his hand addressed to and served on the managers thereof, declare that the certificate of the school is withdrawn as from a time specified in the notice, not being less than six months after the date thereof, and at that time the certificate shall be deemed to be withdrawn accordingly, and the school shall thereupon cease to be an industrial school within the meaning of this Ordinance.

Resigning
certificate.

29. The managers of a private industrial school may give notice in writing to the Governor of their intention to resign the certificate of that school, and at the expiration of six

months from the receipt of that notice the school shall cease to be an industrial school within the meaning of this Ordinance.

30. Notice of the withdrawal or resignation of the certificate of an industrial school shall be published in the *Royal Gazette* and a copy of the *Gazette* containing such notice shall be conclusive evidence of such withdrawal or resignation.

Notice of
cesser of
certificate.

31. When a school ceases to be an industrial school within the meaning of this Ordinance, the children detained therein shall be either discharged or transferred to some other industrial school by order of the Governor.

Disposal of
children if
certificate
ceases.

32. It shall be lawful for the Governor, by warrant under his hand, to order the payment to the managers of any private industrial school, out of money provided by law for the purpose, of such sums as he thinks fit, not exceeding in any case the sum of ten pounds per annum for each child sent to such school under the provisions of this Ordinance.

Payment to
private
industrial
schools.

33. The parent or other person legally liable to maintain a child ordered to be detained in an industrial school under this Ordinance shall, if able, contribute for his maintenance and training therein a sum not exceeding four shillings per week, and such contribution shall be paid to the Inspector of Industrial Schools.

Payment by
parents.

On the complaint of the Inspector of Industrial Schools, or any person authorised by him, at any time during the detention of a child in an industrial school, any Stipendiary Justice may, after summoning the parent or other person liable as aforesaid, examine into his ability to maintain the child and may make an order on such parent for the payment to such Inspector of such weekly sum not exceeding the rates specified in this section as to him seems reasonable. Every such order may specify the time during which the payment is to be made, or may direct the payment to be made until further order.

All sums of money ordered to be paid under this section may be recovered summarily by distress and sale of the goods and chattels of the person upon whom such order is made, and in case no sufficient distress is found such person may be imprisoned with or without hard labour for any term not exceeding two months.

Application of
moneys
received by
Inspector.

34. The Inspector of Industrial Schools shall on the first day of every month pay all sums received by him for the maintenance of children in industrial schools during the preceding month to the Receiver-General.

Forms.

35. The forms in the Schedule to this Ordinance or forms to the like effect, may be used in the cases to which they refer, with such variations as circumstances require ; but no summons, notice or order made for the purpose of carrying into effect the provisions of this Ordinance shall be invalidated for want of form only.

SCHEDULE.

A.

Order sending Child to Industrial School.

Be it remembered, that on the day of in pursuance of the Industrial Schools Ordinance, I Stipendiary Justice of the Peace for did order that A.B. of (whose religious persuasion appears to me to be), be sent to the Industrial School at and that he be detained there during
(Signed) L. M.

B.

Complaint for enforcing Contribution from Parent, &c.

The complaint of the Inspector of Industrial Schools (*or as the case may be*) made to me, the undersigned Stipendiary Justice of the Peace for, this day of at in the same , who says, that one A.B., of the age of years or thereabouts is now detained in the Industrial School at in the of under the Industrial Schools Ordinance, and has been duly ordered and directed to be detained therein until the day of : That one C.B., dwelling in the of in the of is the parent (or step-parent, &c.) of the said A.B., and is of sufficient ability to contribute to the support and maintenance of the said A.B., his son : The said complainant therefore prays that the said C.B. may be summoned to show cause why an order should not be made on him so to contribute.

C. D.

Exhibited before me

J. S.

C.

Summons to Parent, &c.

To A. B. of labourer.

WHEREAS information has this day been laid (or complaint has this day been made) before the undersigned Stipendiary Justice of the Peace in and for for that you (*here state shortly the matter of the information or complaint*): These are therefore to command you, in His Majesty's name, to be and appear on at o'clock in the forenoon at before such Stipendiary Justice of the Peace to answer to the said information (or complaint), and to be further dealt with according to law.

Given under my hand this day of in the year
of our Lord one thousand nine hundred at
aforesaid.

J. S.

D.

Order on Parent, &c., to contribute a Weekly Sum.

Be it remembered, that on this day of at a certain complaint of the Inspector of Industrial Schools (*or as the case may be*), for that one A.B. of, etc. (*stating the cause of complaint as in the form (B)*) was duly heard by and before me, the undersigned Stipendiary Justice of the Peace (in the presence and hearing of the said C. B., *if so, or* the said C.B. not appearing to the summons duly issued and served in this behalf); and I, having duly examined into the ability of the said C.B., and on consideration of all the circumstances of the case, did order the said C.B. to pay to the Inspector of Industrial Schools the sum of shillings per week from the date of this order until the day of the same to be paid at the expiration of each [fourteen, or as the case may be, days].

Given under my hand the day and year first above-mentioned at aforesaid.

J. S.

E.

Distress Warrant for amount in arrear.

To and all other peace officers of

WHEREAS on the hearing of a complaint made by the Inspector of Industrial Schools (*or as the case may be*), that A.B. of, etc. [*stating the cause of complaint as in the form B*], an order was made on the day of by me, the undersigned Stipendiary Justice of the Peace against the said C.B. to pay to the Inspector of Industrial Schools the sum of per week from the date of the said order until the day of, the same to be paid at the expiration of each [fourteen] days (*or as the case may be*) (*): And whereas there is due upon the said order the sum of being for [three] periods of [fourteen] days each, and default has been made therein for the space of fourteen days:

No. 31.

AN ORDINANCE relating to the remission and application of penalties.

1. This Ordinance may be cited as the Penalties Ordinance. Short title.

2. It shall be lawful for His Majesty to remit in whole or in part any sum of money which under any Ordinance now in force or hereafter to be passed may be imposed as a penalty or forfeiture on a convicted offender, although such money may be in whole or in part payable to some party other than the Crown, and to extend the Royal Mercy to any person who may be imprisoned for non-payment of any sum of money so imposed, although the same may be in whole or in part payable to some party other than the Crown. Remission of penalties.

3. Where under any Ordinance by which on conviction any share of the penalty imposed is given to the informer, an information is laid by the Inspector-General or any other Inspector of Police or by any Non-commissioned Police Officer or any Police Constable and a penalty is imposed, the share of such penalty given by the Ordinance to the informer shall not be paid to such informer but shall be paid by the Justice or other person receiving the same into the Colonial Treasury for the use of His Majesty; but the Governor may at any time grant by way of reward to any Non-commissioned Police Officer or Police Constable whom in respect of special services in reference to any such conviction he considers worthy of reward any sum not exceeding the share of the penalty paid into the Colonial Treasury. Rewards to Police.

No. 32.

AN ORDINANCE relating to the law of Evidence.

Short title. 1. This Ordinance may be cited as the Evidence Ordinance.

PART I.

English law of evidence. 2. Whenever any question shall arise in any action, suit, information or other proceeding whatsoever in or before any Court of Justice or Justice of the Peace or before any person having by law or by consent of parties authority to hear, receive and examine evidence, touching the admissibility or the sufficiency of any evidence, or the competency or obligation of any witness to give evidence, or the swearing of any witness, or the form of oath or of affirmation to be used by any witness, or the admissibility of any question put to any witness, or the admissibility or sufficiency of any document, writing, matter or thing tendered in evidence, every such question shall be decided according to the Law of England.

Credit of witness not to be impeached by general evidence of bad character. 3. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may, in case the witness shall in the opinion of the Judge prove adverse, contradict him by other evidence, or by leave of the Judge prove that he has made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

Proof may be given of testimony being inconsistent with former statement. 4. If a witness upon cross-examination as to a former statement made by him relative to the subject matter of the indictment or proceeding and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it; but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he made such statement.

Before contradicting witness by former 5. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing rela-

tive to the subject matter of the indictment or proceeding, without such writing being shown to him ; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him : Provided always that it shall be competent for the Judge at any time during the trial to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he may think fit.

6. A witness may be questioned as to whether he has been convicted of any felony or misdemeanour, and upon being so questioned, if he either denies or does not admit the fact, or refuses to answer, it shall be lawful for the cross-examining party to prove such conviction ; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for such offence, purporting to be signed by the Registrar or Clerk of the Court, or other Officer having the custody of the records of the Court where the offender was convicted, or by the Deputy of such Clerk or Officer, shall upon proof of the identity of the person be sufficient evidence of the said conviction, without proof of the signature or official character of the person appearing to have signed the same.

7. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite, and such instrument may be proved as if there had been no attesting witness thereto.

8. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine shall be permitted to be made by witnesses ; and such writings and the evidence of witnesses respecting the same may be submitted to the Court and Jury as evidence of the genuineness or otherwise of the writing in dispute.

9. Sections 3, 4, 5, 6, 7 and 8 of this Ordinance shall apply to all Courts of Judicature as well criminal as all others, and to all persons having, by law or by consent of parties, authority to hear, receive and examine evidence.

10. The parties to any action for breach of promise of marriage shall be competent to give evidence in such action ; Provided always that no plaintiff in any action for breach of promise of marriage shall recover a verdict unless his or

her testimony shall be corroborated by some other material evidence in support of such promise.

Adultery.

11. The parties to any proceeding instituted in consequence of adultery, and the husbands and wives of such parties shall be competent to give evidence in such proceeding; Provided that no witness in any proceeding, whether a party to the suit or not, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery, unless such witness shall have already given evidence in the same proceeding in disproof of his or her alleged adultery.

Revenue cases.

12. The parties to any information or proceeding in the Supreme Court for the recovery of any penalty for the breach of any law relating to the revenue, shall be competent to give evidence in any such information or proceeding.

Declaration in lieu of oath.

13. If any person called to give evidence in any Court of Justice, whether in a civil or criminal proceeding, shall object to take an oath, or shall be objected to as incompetent to take an oath, such person shall, if the presiding Judge is satisfied that the taking of the oath would have no binding effect on his conscience, make the following promise and declaration :

**This section
repealed by
Ord. No. 291.**

" I solemnly promise and declare that the evidence given by me to the Court shall be the truth, the whole truth, and nothing but the truth."

And any person who, having made such promise and declaration shall wilfully and corruptly give false evidence, shall be liable to be indicted, tried, and convicted for perjury as if he had taken an oath.

In this section the terms " Court of Justice" and " Judge" shall be deemed to include any person or persons having by law authority to administer an oath for the taking of evidence.

PART II.

14. In this part of this Ordinance

" Government Printer" means and includes the Superintendent of Government Printing and any printer purporting to be the printer authorised to print the Ordinances and other documents of the Government.

" Document" means and includes Proclamations, Orders, Rules, Regulations, Warrants, Circulars, Lists, Assessment

Rolls, Minutes, Certificates, Notices, Requisitions, Letters, Decrees, and all other records and writings whatsoever of a public character appertaining to the several departments of the Government in the first column of the Schedule to this Ordinance mentioned.

“Bankers’ Books” means and includes Ledgers, Day-books, Cash Books, Account Books, and all other books used in the ordinary business of a Bank.

“Legal Proceeding” means any Civil or Criminal Proceeding or Enquiry in which evidence is or may be given before any Court of Justice, Judge, Stipendiary or other Justice of the Peace, Arbitrator, Commissioner or person or persons authorised by the Supreme Court to take evidence.

“Judge” means a Judge of the Supreme Court or of a District or Petty Civil Court.

“Bank and Banker” means—

- (a.) Any person or persons, partnership or company carrying on the business of Bankers in the Colony, or the Manager.
- (b.) Any person, persons, partnership or company who may hereafter carry on the business of Bankers in the Colony and who hereafter under the authority of any Ordinance passed by the Legislature of the Colony and allowed by His Majesty may establish a Banking Association in this Colony, or the Manager.
- (c.) Savings Banks or Branch Savings Banks established by the Governor under the authority of the Savings Banks Ordinance. In the case of Savings Banks “Banker” means the Manager of any Savings Bank or Branch Savings Bank.

15. Every Document issued

- (a.) By the Governor;
- (b.) Under the authority of the Governor;
- (c.) By or under the authority of any such department of the Government or officer as is mentioned in the first column of the Schedule hereto;
- (d.) Being a record in any such department of the Government;

Certified
copies of
documents
admissible in
evidence.

shall be received in evidence in all Courts of Justice and in all legal proceedings whatsoever in every case in which the original document would be admissible in evidence in all or any of the modes hereinafter mentioned, that is to say—

- (1.) By production of a copy of the *Royal Gazette* purporting to contain such document;
- (2.) By production of a copy of such document purporting to be printed by the Government Printer;
- (3.) By production (in the case of any document issued by the Governor or under the authority of the Governor) of a copy or extract purporting to be certified by the Colonial Secretary or Assistant Colonial Secretary; and
- (4.) By production (in the case of any document issued by or under the authority of any of the said departments or officer or being a record in any such department of the Government) of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said Schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Ordinance may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying in pursuance of this Ordinance to the truth of any copy of or extract from any document.

Officer not
compellable to
appear as
witness unless
party to the
suit.

16. No officer of any of the several public departments which are specified in the first column of the Schedule to this Ordinance shall, in any legal proceeding to which the Crown or he is not a party be compellable to produce any Document the contents of which can be proved under this Ordinance, or to appear as a witness to prove the matters, transactions and things therein recorded unless by order of a Judge made for special cause.

Offences.

17. If any person commits any of the offences following, that is to say :—

- (1.) Prints any Document which falsely purports to have been printed by the Government Printer,

or tenders in evidence any Document which falsely purports to have been printed as aforesaid, knowing that the same was not so printed.

- (2.) Forges or tenders in evidence, knowing the same to have been forged, any Certificate by this Ordinance authorized to be annexed to a Copy or Extract from any Document;

shall be guilty of felony and shall on conviction be imprisoned with or without hard labour for any term not exceeding five years.

18. The provisions of Section 15 of this Ordinance shall be deemed to be in addition to and not in derogation of any powers of proving Documents given by any Ordinance or law now existing or in force in the Colony. Saving former rights.

19. Subject to the provisions of this Ordinance a copy of any entry in a Banker's Book shall in all legal proceedings be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded. Mode of proof of entry in Bankers' Books.

20. A copy of an entry in a Banker's Book shall not be received in evidence under this Ordinance unless it be first proved that the book was at the time of the making of the entry one of the ordinary books of the Bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the Bank. Proof that book is a Banker's Book.

Such proof may be given by the Manager or Accountant of the Bank, and in the case of Savings Banks by the Manager of any Savings Bank or Branch Savings Bank.

Such proof may be given orally or by affidavit sworn or statutory declaration made before any Commissioner or person authorized to take affidavits or statutory declarations under The Statutory Declarations Ordinance.

21. A copy of an entry in a Banker's Book shall not be received in evidence under this Ordinance unless it be further proved that the copy has been examined with the original entry and is correct; such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally or by an affidavit sworn or statutory declaration made before any Commissioner or person authorised to take affidavits or statutory declarations under the Statutory Declarations Ordinance. Verification of copy.

When Banker
not compell-
able to produce
book, &c.

22. The Manager or Accountant of a Bank and in the case of Savings Banks the Manager of any Savings Bank or Branch Savings Bank shall not in any legal proceeding to which the Bank is not a party be compellable to produce any Banker's Book, the contents of which can be proved under this Ordinance, or to appear as a witness to prove the matters, transactions and accounts therein recorded unless by order of a Judge made for special cause.

Judge may
order
inspection, &c.

23. On the application of any party to a legal proceeding, a Court or Judge may order that such party be at liberty to inspect and take copies of any entries in a Banker's Book for any of the purposes of such proceedings. An order under this section may be made either with or without summoning the Bank or any other party, and shall be served on the Bank three clear days before the same is to be obeyed unless the Court or Judge otherwise directs.

Fees to be
paid.

24. There shall be paid to and taken by the Officers of the several Departments hereinafter mentioned, the following Fees. That is to say—

(a.) The Registrar-General's Department :

For every Copy of any Deed, Will,
or other document, not including
Registers of Births, Deaths, or
Marriages, for every 90 words £0 0 6

For a Certificate of correctness of such
Copy 0 5 0

(b.) All other Departments in the Schedule
mentioned :

For every Copy of any Document,
for every 90 words 0 0 6

For a Certificate of correctness of such
Copy 0 5 0

All Fees under this Ordinance shall be paid into the Treasury for the use of His Majesty.

Computation
of time.

25. Sunday, Christmas Day, Good Friday, Corpus Christi, and days proclaimed by the Governor as close holidays under The Public Holidays Ordinance, shall be excluded from the computation of time under this Ordinance.

SCHEDULE.

COLUMN I. Name of Department or Office.	COLUMN II. Name or Title of Office or Certifying Officers.
Colonial Secretary's Department	{ Colonial Secretary. Assistant Colonial Secretary. Chief Clerk.
Auditor-General's Department	{ Auditor-General. Chief Clerk.
Immigration Department	{ Protector of Immigrants. Sub-Protector and Inspector. Assistant Inspector of Immigrants.
Receiver-General's Department	{ The Receiver-General. The Accountant. Sub-Receiver.
Customs Department (in Trinidad)	{ Collector of Customs. Chief Clerk.
" " (in Tobago)	{ Sub-Collector. Chief Clerk. Landing Waiter.
Registrar-General's Department (in Trinidad)	{ Registrar-General. Deputy Registrar. First Clerk.
Registrar-General's Department (in Tobago)	{ The Delegate of the Registrar-General.
Post Office (in Trinidad)	{ Postmaster-General. Postmaster, San Fernando.
" " (in Tobago)	... The Postmaster.
Crown Lands Department	{ Sub-Intendant. Assistant Sub-Intendant.
Survey Department	... Engineer in charge of Surveys.
Wardens and Supervisors	... The Wardens and Supervisors of the several Districts.
Port Department (in Trinidad)	{ Harbour Master. Harbour Master, San Fernando.
" " (in Tobago)	... The Harbour Master.
Education Department	{ Inspector of Schools. Secretary of the Board of Education.

SCHEDULE—CONTINUED.

COLUMN I. Name of Department or Office.	COLUMN II. Name or Title of Office of Certifying Officers.
Medical Department (in Trinidad) ...	Surgeon-General.
Police (in Trinidad)	{ Inspector-General. Inspectors.
,, (in Tobago)	... The Inspector.
Prison Department	{ Inspector of Prisons, Industrial Schools and Reformatories. Superintendent of Prisons. Assistant Superintendent of Prisons.
Railway Department	{ General Manager. Traffic Manager.
Public Works Department	... Director of Public Works.
Warden's Department (Tobago)	{ The Warden of Tobago. Chief Clerk.

No. 33.

AN ORDINANCE relating to Jurors and Juries.

1. This Ordinance may be cited as the Jury Ordinance. Short title.

2. In this Ordinance Interpre-
tation.

The term "the Court" means the Supreme Court.

The term "Reviser" means the Stipendiary Justice appointed under this Ordinance to revise any Jury list.

The term "Jury Sessions" means

- (1.) Any Criminal Sessions.
- (2.) Any other Jury Sessions appointed by the Court by General Order or otherwise.

The term "trial" includes any of the following trials or inquiries when made by or with a Jury, that is to say—

- (1.) Any inquest of office,
- (2.) The trial of any issue of fact,
- (3.) A trial or inquiry for the assessment of damages in any action, and
- (4.) An inquiry under the provisions of any Ordinance in this behalf as to compensation or damages in respect of any lands taken, used, or injuriously affected.

The term "the Marshal" includes the Deputy-Marshall in cases where he is substituted for the Marshal under this Ordinance.

The term "Income" includes any profits, allowances emoluments or advantages capable of being estimated in money.

3. Every man qualified by law and not disqualified or excepted as in this Ordinance is mentioned shall be placed on the list of jurors and shall be liable to serve as a juror. Liability to
serve.

4. The qualifications of a juror shall be as follow, that is to say:— Qualifications.

1. He shall be over the age of twenty-one years.
2. He shall be under the age of sixty years.
3. His ordinary residence shall be in the Colony.
4. He shall be born in allegiance to His Majesty, or, not being so born, he shall have resided in this Colony for two years or more.

5. He shall be able to read and write the English language and understand the same when spoken.
6. He shall have at least one of the following property qualifications, that is to say :—
 - (a.) He shall be possessed of a freehold interest in land of the clear annual value of Thirty pounds, or
 - (b.) He shall be possessed of a leasehold interest in land of a clear annual value of Forty pounds, or,
 - (c.) He shall be in the occupation of a house of the clear annual value of Fifty pounds, or which is rated or assessed to some general or local tax on an annual value of not less than Thirty pounds, or,
 - (d.) He shall be in the enjoyment for his own use or benefit of a net annual income of not less than one hundred and fifty pounds.

Disqualifica-
tions.

5. The disqualifications shall be as follows :—

1. Having been convicted of any felony or of any misdemeanour involving dishonesty in respect of which misdemeanour such person has been duly sentenced to imprisonment.
2. Being lunatic or of unsound mind, or imbecile, or deaf, or blind, or being afflicted with any other permanent infirmity of body or mind.

Revision of
list.

6. The name of a person disqualified as in the last section provided shall not be inserted in any list under Section 9 hereof and it shall be the duty of the Reviser to exclude from such list the name of any person so disqualified and also the name of any person who to his knowledge is of the age of 60 years and over, and any Judge of the Court may at any time on being satisfied that any person has attained the age of 60 years and over order the name of such person to be removed from the list for the time being and not to be inserted in any subsequent list and the name of any person so ordered to be removed shall be erased by the Marshal from the Jurors book for the year and not inserted in any Jurors book for any subsequent year.

Exceptions.

7. The exceptions shall be as follows, that is to say :—

Members of the Legislative Council.
The Judges of the Supreme Court.

Stipendiary Justices and their clerks.

Ministers of Religion.

Members of the Medical Board in actual practice.

Licensed Druggists in actual practice as such.

Persons (other than licensed shop-keepers) registered under the Medical Ordinance.

Barristers and Solicitors in actual practice and their clerks.

Officers of Courts of Justice.

Jailors and persons employed as deputies under them.

Officers of His Majesty's Army and Navy on Service.

Officers, whether Commissioned or Non-commissioned, and Constables of Police.

Officers of the Post Office.

Civil Servants of the Crown, whom the Governor by writing under the hand of the Colonial Secretary requires to be excepted, so long as such persons remain in the Civil Service and such requisition continues in force.

8. Any person qualified and liable as aforesaid who has any of the following property qualifications, that is to say :—

Qualification
of special
jurors.

1. Who is possessed of a freehold or leasehold interest in land of the clear annual value of one hundred pounds, or
2. Who is in the occupation of a house of the clear annual value of one hundred pounds or which is rated or assessed to some general or local tax on an annual value of not less than sixty pounds, or
3. Who is in receipt of an annual salary of not less than five hundred pounds by the year,

shall be qualified and liable to serve as a special juror.

9. In the year 1902 and in every alternate year lists of the names of all men qualified to serve as jurors shall be made out and returned as follows, that is to say :—

Jury lists and
Jurors book.

1. Of such men residing in any ward by the Warden, and
2. Of such men not residing in any ward by the Clerk of the Peace for the district in which they reside.

Every person required to make out any such list shall make diligent enquiry as to the persons in the area to which his list applies who are duly qualified and in particular shall by all lawful ways and means in his power ascertain whether such persons can read and write the English language and understand the same when spoken, and he shall have liberty to inspect and make copies of or extracts from the house-rate book of any town or borough and the assessment rolls of any Ward, and the Town Clerk of every town or borough and the Wardens shall give facilities accordingly.

Such lists shall shew in respect of each such man his name or names, his place of abode, his quality, his business or occupation (if any), and the nature of his qualification. If he is qualified to serve as a special juror, the letters S. J. shall be set opposite his name in a separate column. So far as is practicable, the list shall shew the names in full arranged according to the alphabetical order of the surnames and shall be according to the Form A in the Schedule to this Ordinance.

Each such list shall be revised by a Stipendiary Justice of the Peace appointed by the Governor to revise the same.

The person making out any such list shall sign the same and send it on or before the first day of September to the Reviser, who shall cause copies with a notice mentioning the place and time at which objections to the list will be heard to be affixed in such places as he directs with the view of giving publicity to the same and shall cause such list to be published twice at least in the *Royal Gazette* during the month of September.

The Reviser shall sit in open Court during the month of October and hear objections to the list and revise and settle the same, and any person may appear before him and claim to have his name struck out from or inserted in the list, and such claimant and his witnesses may be examined on oath, and the Reviser shall hear and determine every such claim and correct the list accordingly. The Reviser shall have the powers given to Justices by Part III of the Summary Conviction Offences (Procedure) Ordinance. The person who made out the list shall attend such Court and any adjournment thereof as directed by the Reviser and shall answer on oath such questions touching the said list as may be put to him by the Reviser, and if it appears to the Reviser on such or any other evidence or upon his own knowledge that the name of any man is improperly

inserted in or omitted from the list or that there is any error or omission in any of the particulars required by this Ordinance, he shall amend the list accordingly: Provided that no man's name if omitted shall be inserted, nor shall any error or omission in the description of any man be corrected, unless upon the application of such man, or unless such man had notice that application for such purpose would be made at such Court, or unless the Reviser causes notice to be given to such man, requiring him to show cause at some adjourned Court why his name should not be inserted, or why the error or omission in the description of such man should not be corrected. Every such list when duly corrected, if correction is necessary, shall be signed by the Reviser who shall cause the same to be delivered to the Marshal on or before the Fourteenth of November and the Marshal shall cause the names of the jurors mentioned in the lists delivered to him with their respective places of abode, additions and qualifications to be fairly copied in a book to be entitled the Jurors Book for the years for which such book is in use. Every Jurors Book so prepared shall be brought into use on the First of January next after it is prepared and shall be used for the two years next following, and thereafter until another Jurors Book is prepared according to this Ordinance.

10. When it has been ordered by the Court that any cause or matter pending in the civil jurisdiction of the Supreme Court shall be tried by a jury such trial shall be deemed a trial at the jury sessions; and when by any Ordinance it is enacted that any issue other than an issue in an action or other proceeding in the Supreme Court shall be tried by a jury the trial of such issue shall be deemed to be a trial at a jury sessions and the provisions of this Ordinance shall apply thereto.

Trials by jury
on order of
Court.

11. For the trial of all causes at the several Jury Sessions of the Supreme Court one precept for the return of jurors according to the Form B in the Schedule to this Ordinance shall be sued out by the Registrar of the Supreme Court to the Marshal so as to leave an interval before the first day of each Session

Precept.

(1.) in the case of Criminal Sessions, of fifteen days at least, and

(2.) in all other cases, of six days at least.

No writ of *venire facias juratores* shall be issued.

Return of
precept.

12. Every precept for the return of jurors shall be returned by the Marshal in the case of Criminal Sessions four days at the least, and in all other cases two days at the least before the first day of the Sessions and the Marshal shall annex to every such precept (except in cases where a special jury is struck) a panel containing the names alphabetically arranged together with the places of abode and additions of a competent number of jurors named in the Jurors Book.

Jury
summons.

13. The summons of every juror to serve shall be according to the Form C in the Schedule to this Ordinance and shall be served personally on such juror or left for him at his usual place of abode or business with some person there inhabiting or employed, and three days at the least before the first day of the Sessions at which he is required to attend. Within the following limits (that is to say) the town of Port-of-Spain and one mile outside of the boundary thereof, and the Borough of San Fernando and one mile outside the boundary thereof, such summons shall be served by the Marshal or his assistants. Except within the limits aforesaid the Stipendiary Justices of the Peace and the Wardens shall, on a præcipe from the Marshal for that purpose, cause such summons to be served on so many of the persons liable to serve as Jurors, and resident within their respective Districts or Wards, as the Marshal may by such præcipe direct, and shall return such præcipe, with a list of the Christian and surnames, places of abode and additions of the persons so summoned to the Marshal with the time and place and mode of service.

Limitation of
liability to
serve.

14. No one residing in any of the following counties, that is to say, Victoria, Saint Patrick, Nariva and Mayaro, shall be summoned to serve on a common jury in Port-of-Spain and no one except persons residing in the counties aforesaid shall be summoned to serve on a common jury in San Fernando: Provided that such exemption shall not apply to any trial by a special jury.

Array of 9
jurors.

15. The array of jurors for the trial of any case civil or criminal except on indictment for murder or treason shall be of 9 jurors and no more. The trial shall be had in every case in the same manner in all other respects as has previously been used before 12 jurors, save as hereinafter otherwise expressly provided.

16. On trials on indictment for murder and treason 12 jurors shall form the array and the trial shall proceed before such 12 jurors and the unanimous verdict of such 12 jurors shall be necessary for the conviction or acquittal of any person so indicted.

Murder and treason.

17. At the opening of any Jury Sessions the Registrar or other Officer of the Court shall cause to be written the name of every juror appearing on the panel on a distinct piece of parchment or card and such pieces of parchment or card shall be as nearly as may be of equal size, and shall by the direction and care of the Registrar or other Officer of the Court be put together into a box: and when any cause is called on for trial the Registrar or other officer shall in open Court draw out one after another a number of such parchments or cards equal to the number required for the jury in the cause and call in open Court the name which appears on each parchment or card as it is drawn, and if any of the men whose names are so drawn and called do not appear, or are challenged or set aside, then any further number until there be drawn the number required for the jury in the cause of men who appear and after all just causes of challenge allowed remain as indifferent, and the said number of men so first drawn and appearing and approved as indifferent, their names being marked in the panel and they being sworn, shall be the jury to try the cause, and the names of the men so drawn and sworn shall be kept apart by themselves until such jury is discharged and then the same names shall be returned to the box there to be kept with the other names remaining at that time undrawn, and so *toties quoties*, as long as any cause remains to be tried: Provided that if any cause is brought on before the jury in any other cause have brought in their verdict, the Court may order the required number of the residue of the said parchments or cards not containing the names of any of the jury in such other cause to be drawn in manner aforesaid for the trial of the cause so brought on; Provided also that where no objection is made on behalf of the Crown or any other party the Court may try any cause with the same jury that previously tried or was drawn for the trial of any other cause without their names being returned to the box and redrawn, or may order the names of any men on such jury whom both parties consent to withdraw or who may be justly challenged to be set aside and other names to be drawn from the box and may try the issue with the residue

Calling common jury.

As to division of panel *Vide* No. 242.

of the original jury and the men whose names are so drawn, and who appear and are approved as indifferent, and so *toties quoties*, as long as any cause remains to be tried.

Challenges.

18. No challenge to the array shall be allowed; but in trials of indictments every person arraigned whether for treason, felony or indictable misdemeanour shall be allowed to challenge three of the jurors by way of peremptory challenge and without being subject to assign any reason therefor; but every peremptory challenge beyond that number shall be entirely void. And in like manner the Attorney-General and Public Prosecutor or Counsel appearing for him may without cause assigned challenge three jurymen if one person is arraigned, and six if two are arraigned together and so forth, being three without cause assigned for every person arraigned, and every further such peremptory challenge shall be void. The challenge to the polls for cause shall as heretofore be allowed without stint either on the part of the prosecution or defence and any matter which according to the law of England would be good cause of challenge to the poll shall be a good cause, and if any such cause of challenge is alleged the Judge shall forthwith enquire as to the truth or validity thereof and allow or overrule the same as he may deem just.

Oath of Jurors.

19. Before proceeding to any trial each juror shall in open Court take the oath appointed by the law of England to be taken by Petit jurors in the like case. Provided that the affirmation of any such Juror shall be received in lieu of his oath in any case in which by the law of England such affirmation would be received in lieu of an oath.

Custody and discharge of Jury.

20. When the jury has been once sworn to try any cause, the jurors shall not be discharged, except in cases of evident necessity, nor allowed to separate or hold communication with other persons until they have given in their verdict, and such verdict, whether on consultation in the jury-box or after the jury have retired and been enclosed, shall be returned by the mouth of the foreman of the jury in the presence of the other jurors: Provided that when any such jury is not immediately prepared to return their verdict the Court may direct them to retire and be enclosed.

Refreshments.

21. Any jury after being charged or by permission of the Judge during any adjournment of the trial shall be permitted to receive and take meat and drink and where

directed by the Judge the same may be provided by the Marshal at the cost of the Colony.

22. When a jury has been charged and has retired if at the end of three hours after such retirement the foreman of the jury states to the Court that 7 of the jury are agreed upon a verdict the verdict of such 7 may at the discretion of the Judge be received and entered, except in trials for murder or treason, and if 7 are not so agreed or if the Judge does not think fit to accept the verdict of 7 then the jury shall be further directed to retire. Provided that at any time thereafter it shall be lawful for the Judge on being satisfied that there is no reasonable probability that 7 of the jury will arrive at a verdict, at such time as he may think fit to order the jury to be discharged, and they shall be discharged accordingly and the Court may either cause another jury to be summoned at the same sessions or may adjourn the case for a future sessions or in the case of a civil trial to such special day as the Court may deem fit; and when a juror is taken ill during any trial or a prisoner is by illness rendered incapable of remaining at the bar or in any other case of evident necessity the Judge may in like manner at any time after the jury have been sworn discharge the jury and cause another jury to be summoned, or adjourn the case.

Verdict of 7
jurymen.

Discharge of
jury.

23. In any trial other than a trial on indictment it shall be lawful for the Judge by the consent of parties to accept a verdict of any 5 of the jury at any time after the jury has been charged.

Verdict of 5
jurymen.

24. It shall be lawful for the Court upon motion made on behalf of the King or upon the motion of any prosecutor, relator, plaintiff, defendant or other party in any case whatsoever triable by or with a jury whether civil or criminal or on any penal statute, (except indictments for treason or felony punishable with death) depending in the said Court to order a special jury to be struck before the Marshal, and every jury so struck shall be the jury returned for the trial.

Special juries.

25. Special juries shall consist of 9 jurymen and in all cases other than indictments for murder and treason the verdict may be taken as provided in Section 23 hereof.

Special juries.

26. The Marshal shall within ten days after the making up of the Jurors Book in each alternate year, take from it the names of all men qualified to serve as special jurors, and shall cause the names of all such men to be fairly copied

Special Jurors
list.

out in alphabetical order, together with their respective places of abode, additions and qualifications, in a separate list to be subjoined to the Jurors Book and called the "Special Jurors List" and shall affix to every name in such list its proper number, commencing from the first name and continuing them in a regular arithmetical series down to the last name, and shall cause the said several numbers to be written on distinct pieces of parchment or card, being all as nearly as may be of equal size, and after all the said numbers have been so written shall put the same together in a separate drawer or box, and there shall safely keep the same to be used for the purpose hereinafter mentioned.

How special
jury shall be
struck.

27. Whenever the Court orders a special jury to be struck, the Marshal shall appoint a time and place for the nomination of such special jury, and a copy of the order of Court and of the appointment of the Marshal shall be served by the party obtaining such order on the opposite parties; and the Marshal at the time and place appointed, if any of the parties attend by themselves or their Solicitors, shall in the presence of the parties so attending put all the cards so numbered in writing into a box, and after having shaken them together shall draw out of the box, one after another, so many of the said written numbers as amount to quadruple the number required for the jury in the cause, and shall as each written number is drawn refer to the corresponding number in the "Special Jurors List" and read aloud the name designated by such last mentioned number; and if at the time of so reading any name, any party or his solicitor objects that the man whose name is read is incapacitated from serving on the said jury, and then and there proves his objection to the satisfaction of the Marshal, the name shall be set aside and the Marshal shall instead thereof draw out of the box another written number, and read aloud the name designated thereby, which name may be in like manner set aside, and other written numbers and names shall in every such case be resorted to, according to the mode of proceeding hereinbefore described, for the purpose of supplying names in the places of those set aside, until the required quadruple number of names not liable to be set aside is completed: and if in any case it happens that the full number cannot be obtained from the "Special Jurors' List," the Marshal shall fairly and indifferently take from the Jurors Book such a number of other names of jurors as make up the full quadruple number required, all of which

names shall in such case be equally deemed to be those of Special Jurors: and thereupon the parties or their solicitors in the presence of the Marshal, or the Marshal in lieu of any party failing to attend, shall, in turn, beginning with the plaintiff, strike off one of the said quadruple number until the number of jurymen is reduced to double the number required for the trial. If none of the parties attend, the Marshal shall take the first such double number obtained by drawing as aforesaid. The double number of jurors obtained by either of the processes aforesaid and no others shall be summoned to attend on the day of trial, and the jury for the trial shall consist of such as first appear on their names being called over in Court up to the number required for the jury. Provided as follows:—

- (1.) No challenges shall be allowed in a criminal or Challenges.
any other case;
- (2.) The parties in any cause, or their solicitors, may Special Jury
may be
nominated by
consent.
consent to have a special jury nominated; and upon consent to that effect, signed by each party or his solicitor, being communicated to the Marshal, he is hereby authorized and required to nominate a special jury for the trial of every such cause;
- (3.) The same special jury, however nominated, may Jury may try
several causes.
try any number of causes so as the parties in every such cause or their solicitors have signified their assent in writing to the nomination of such special jury for the trial of their respective causes;
- (4.) It shall be lawful for the Court, if it so thinks Exemption.
fit, upon the application of any man who has served upon one or more special juries at any sessions, to discharge such man from serving upon any other special jury during the same sessions.

28. The party who applies for a special jury shall, in the Costs of
special jury.
first instance, pay the fees for striking such jury and all expenses occasioned by the trial of the cause by the same, but such fees and expenses shall ultimately be borne and paid as the Court directs.

29. All jurors not summoned on a special jury residing Payment of
common
jurors.
more than three miles from the place to which they are

summoned shall be entitled to be paid in respect of their travelling to and from and attendance and subsistence at the place to which they are summoned such sum as the Governor may by regulation prescribe and such regulations may prescribe the payment of or provision of a free pass for any railway fare or steam boat fare going and returning.

Allowance to
special jurors.

30. No juror who serves upon any special jury shall be allowed or take for serving on any such jury more than such sum of money as the Judge who tries the cause thinks just.

Default of
jurors.

31. Where a full jury does not appear or where after appearance of a full jury by challenge of one of the parties or otherwise there is likely to be a default of jurors, the Court upon request made for the King by any one thereto authorized or assigned by the Court or on request made by any of the parties or their respective solicitors, in any trial, whether public or private, shall command the Marshal to name and appoint, as often as need requires, so many of such other able men then present as will make up a full jury; and the Marshal shall at such command of the Court, return such men duly qualified as are present or can be found to serve on such jury, and shall add and annex their names to the former panel; provided that where a special jury is struck for the trial of any issue, the talesmen shall be such as may be empannelled upon the common jury panel to serve at the same Court, if a sufficient number of such men can be found; and the King, by any one so authorized or assigned as aforesaid, and all and every the parties aforesaid shall in any of the cases aforesaid have their respective challenges to the jurors so added and annexed; and the Court shall proceed to the trial of every such issue with those jurors who were before empannelled together with the talesmen so newly added and annexed, as if all the said jurors had been returned upon the precept awarded to try the cause.

Jurors failing
to attend or
not answering
or withdraw-
ing.

32. If any man having been duly summoned to attend on any jury does not attend in pursuance of such summons, or being thrice called does not answer to his name, or if any such man or any talesman, after having been called is present and does not appear or after his appearance wilfully withdraws himself from the presence of the Court, the Court shall set such fine upon every such man or talesman

so making default not exceeding ten pounds (unless some reasonable excuse is proved by oath or affidavit) as the Court thinks fit.

33. The Marshal is hereby indemnified for empannelling and returning any man named in the Jurors Book, although he may not be qualified or liable to serve on juries; and if the Marshal wilfully empannels and returns any man to serve on any jury, such man's name not being inserted in the Jurors Book for the current year, or if such book has not been made up, then in the Jurors Book last made up, in every such case the Court may, upon examination in a summary way, set such fine not exceeding Fifty pounds upon the Marshal as to the Court seems meet.

*Indemnity to
Marshal.*

34. In case of any disagreement of a jury in a civil case and no verdict being come to or taken in accordance with the provisions hereof, notwithstanding any law or practice heretofore obtaining, the next trial of such case shall be held before a Judge without a jury.

*Disagreement
in civil cases.*

35. In the case of an inquiry under any Ordinance in this behalf as to compensation or damages in respect of any lands taken, used, or injuriously affected, the Court shall have the same power to order a new trial as in the case of a trial in an action.

*New trial in
compensation
cases.*

36. Where by this Ordinance any time is limited for the doing of any act or the giving or publishing any notice, list or other document or for taking any proceeding, or any time is limited during which any notice, list, book or other document is to continue in force, such time, either before or after the expiration thereof, may be enlarged by the Court on the application of the Attorney-General or Solicitor-General or any person concerned.

*Power to
enlarge time.*

An application under this section may be made by motion or in such other way as any Orders or Rules of Court made under the provisions of the Judicature Ordinance may direct, and the Court may make such order with respect to the costs of any such application as it deems just.

No. 34.

Where in the opinion of the Court an application under this section is rendered necessary by the wrongful act, default or omission of any person, the Court may order such person to forfeit and pay to His Majesty the King any sum not exceeding fifty pounds by way of fine.

a competent number of good and lawful men, qualified according to law to serve as Jurors, and have then and there the names of the Jurors and this Writ.

Witness: His Honour
the said Colony, at Port-of-Spain, this
in the year of Our Lord

Our Chief Justice, in and for
day of

T.W., Registrar.

C.

Summons to Jurors. •

To Mr. of

You are hereby required to be and appear at the Sessions of the Supreme Court to be held at the Court House in on the day of at the hour of o'clock in the forenoon, there to serve as a Juror and not to depart without leave of the said Court.

Dated this day of

A.B., Marshal,
or C.D., Stipendiary Justice
(or Warden.) •

No. 34.

AN ORDINANCE for the constitution of one Supreme Court and for other purposes relating to the better administration of Justice.

Short title.

1. This Ordinance may be cited as the Judicature Ordinance.

Interpretation.

2. In this Ordinance the term

“The Court” means the Supreme Court constituted by this Ordinance :

“Rules of Court” includes forms :

“Cause” includes any action, suit, or other original proceeding between a plaintiff and a defendant, and any criminal proceeding by the Crown :

“Action” means a civil proceeding commenced by writ, or in such other manner as may be prescribed by Rules of Court, and does not include a criminal proceeding by the Crown :

“Plaintiff” includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise :

“Petitioner” includes every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant :

“Defendant” includes every person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceeding :

“Party” includes every person served with notice of or attending any proceeding, although not named on the record :

“Matter” includes every proceeding in the Court not in a cause :

“Pleading” includes any petition or summons, and also includes the statements in writing of the claim or demand of any plaintiff and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant :

“Judgment” includes decree :

“Order” includes rule :

“Pension” includes retirement and superannuation allowance :

“Statutory Provision” includes any provision contained in this Ordinance or in any Rules of Court made pursuant to this Ordinance and approved by the Governor and Legislative Council and not disallowed by His Majesty :

“Suit” and “Action” are synonymous :

3. There shall be one Supreme Court in this Colony, which shall be a Superior Court of Record. Supreme Court.

4. The Supreme Court shall consist of not more than three and not less than two Judges, of whom one shall be called the Chief Justice of Trinidad and Tobago and shall be the President of the Court, and the other or others shall be called the Puisne Judge or Puisne Judges of Trinidad, and shall, if more than one, rank according to the priority of their respective appointments. Every Judge of the Supreme Court shall be appointed by Letters Patent under the Public Seal of the Colony by the Governor, in accordance with such instructions as he may receive through one of His Majesty's Principal Secretaries of State, and shall hold his office during His Majesty's pleasure, subject to any conditions contained in any regulations made by or under the authority of His Majesty for His Majesty's Colonial Service, and shall receive such salary as the Governor, with the sanction of the Legislative Council, appoints. The acceptance by any Judge of the Court of any other office or place of profit or emolument not authorised by law shall be and be deemed *de facto* an avoidance of his office of Judge, and his salary as Judge shall cease accordingly from the time of his acceptance of such other office or place. Judges of the Supreme Court.

The said Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any Judge.

Any act required or authorized to be done by, before or in the name of the Chief Justice may be done by, before or in the name of a Puisne Judge of the Supreme Court in case of the absence on leave or otherwise, indisposition or inability to attend of the Chief Justice. Absence of Chief Justice.

Whenever the office of any Judge of the Court is vacant, and whenever any Judge is absent from the Colony, or is by reason of illness, interest in any cause or matter, or for any other reason, incapable of acting, the Governor, if he thinks fit, may in the name of His Majesty by Letters Acting Judges.

Patent under the Public Seal of the Colony appoint some person being a Barrister-at-Law of five years standing at least to act in the place of the Judge whose office is vacant, or who is incapable of acting.

Full Court.

5. Any two Judges of the Court shall be sufficient to constitute a full Court. At any sitting of a full Court it shall be the duty of every Judge who is in the Colony and not prevented by illness or other reasonable cause, to attend, but the absence of a third Judge shall not in any case affect the validity of any proceeding.

Where a full Court is composed of the Chief Justice or Acting Chief Justice and a Puisne Judge, and such Judges differ in opinion, the opinion of the Chief Justice or Acting Chief Justice shall prevail: Provided that in all cases where two Judges constituting a full Court differ in opinion such full Court shall, if there be three Judges of the Court, not give judgment, and the cause or matter shall be reheard and determined by such three Judges, unless at any time it appears to a full Court composed of the Chief Justice or Acting Chief Justice and a Puisne Judge that it is impracticable that the cause or matter should be so reheard within a reasonable time, in which case the cause or matter shall be heard and determined and judgment therein given by a full Court composed as last aforesaid.

Seals.

6. The Court shall have and use as occasion requires a Seal for all writs and processes other than those issued in the summary jurisdiction conferred upon the Court by this Ordinance. Such seal shall bear an impression of the Royal Arms within an exergue or label surrounding the same, with the inscription, "Supreme Court of Trinidad and Tobago."

The Court shall also have and use as occasion requires special Seals for writs and other processes issued in the summary jurisdiction. Such last-mentioned seals shall bear an impression of the Royal Arms within an exergue or label surrounding the same with the inscription "Supreme Court of Trinidad, Summary Jurisdiction, Port-of-Spain," "Supreme Court of Trinidad, Summary Jurisdiction, Tobago" and "Supreme Court of Trinidad, Summary Jurisdiction, San Fernando," as the case may be.

Registrar.

7. There shall be a Registrar of the Court, who shall have the custody of the seals of the Court, except the seals

for use in the summary jurisdiction at Tobago and at San Fernando, and all records, documents and papers thereof, and shall perform such duties as may be prescribed by Rules of Court in force under this Ordinance, but the duties so prescribed shall be the same as or analogous to the duties hitherto performed by the Registrar of the Courts, and subject to such Rules of Court the Registrar shall perform as nearly as may be the same duties as were performed by the Registrar of the Courts.

The Registrar of the Court shall also have powers and discharge duties corresponding to the powers and duties of the King's Coroner and Attorney and Master of the Crown Office attached to the King's Bench Division of the High Court of Justice in England so far as such powers or duties relate to any judicial proceedings.

8. There shall be a Sub-Registrar of the Court who shall have the custody of the seal of the Court for use in the summary jurisdiction at San Fernando, and perform such duties in reference to proceedings at San Fernando as may be prescribed by Rules of Court in force under this Ordinance, but the duties so prescribed shall be analogous to the duties performed in reference to other proceedings by the Registrar of the Court.

Sub-
Registrar,
San Fernando.

9. Such Registrar and Sub-Registrar of the Court shall be appointed by His Majesty by Letters Patent under the Public Seal of the Colony, and shall hold office during His Majesty's pleasure and subject to any conditions contained in any regulations made by or under the authority of His Majesty for His Majesty's Colonial Service, and shall receive such salaries as the Governor, with the sanction of the Legislative Council, appoints.

Appointment
and salaries of
Registrar and
Sub-Registrar.

10. There shall be a Sub-Registrar of the Court in Tobago, to be appointed by the Governor, who shall (subject to any rules made under section 46 hereof) in the absence of the Registrar of the Court from Tobago have such powers and perform such duties with respect to proceedings in Tobago as the Registrar of the said Court has and performs in respect of proceedings in the said Court in Trinidad. Such Sub-Registrar shall receive such salary as the Governor with the sanction of the Legislative Council shall appoint.

Sub-
Registrar,
Tobago.

11. Any act done or document signed by the Registrar or any Sub-Registrar of the Court shall not be liable to

Common
powers of
Registrars.

objection on the ground that it ought to be done or signed by another of them.

Registrar to
be Marshal.

12. The Registrar shall be Marshal of the Colony and shall perform all the duties, have all the rights and powers and be subject to all the liabilities and obligations appertaining to that office at the commencement of this Ordinance.

Security to be
given by
Marshal.

13. The Marshal of the Colony shall give security to the satisfaction of the Governor with some sufficient surety or sureties in the sum of one thousand pounds for the due performance of the duties of the office of Marshal, and for faithfully accounting for all moneys and property that come into his hands or possession as such Marshal and paying over such moneys.

Neglect to
give security.

14. Any person who enters upon the office of Marshal or performs any of the duties thereof without having previously given such security shall be liable to a penalty of five hundred pounds, and shall forthwith be discharged from and be thenceforth incapable of being appointed to or holding the said office.

Deputy
Marshals.

15. There shall be Deputy Marshals of the Court at San Fernando and at Tobago respectively. Such Deputy Marshals shall be appointed by the Governor and shall have such powers and perform such duties as shall be prescribed by Rules of Court. They shall receive such salaries respectively as the Governor with the sanction of the Legislative Council shall appoint.

General
jurisdiction of
the Court.

16. All such jurisdiction as is vested in the High Court of Justice in England shall be deemed to be vested in the Court, but the jurisdiction of the said High Court as a Court for Divorce and Matrimonial Causes shall be excepted, and no such jurisdiction shall be vested in the Court.

Jurisdiction in
lunacy.

17. All such jurisdiction in relation to the custody of the persons and estates of idiots, lunatics and persons of unsound mind as is in England vested in the Lord Chancellor or other person or persons intrusted by His Majesty with the care and commitment of such persons and estates, shall be vested in the Court.

Statutory
jurisdiction of
Court.

18. All jurisdiction which by or by virtue of any Order in Council, Ordinance or other enactment is vested in any

Court hitherto having jurisdiction in this Colony shall be transferred to and vested in the Court, and the jurisdiction so transferred shall include the jurisdiction which was vested in or capable of being exercised by all or any one or more of the Judges of any such former Court sitting in Court or Chambers or elsewhere when acting as Judges or a Judge in pursuance of any Order in Council, Ordinance or other enactment, and shall include all powers given to any such former Court or to any such Judges or Judge by any Order in Council or Ordinance or other enactment, and also all ministerial powers, duties and authorities incident to any and every part of the jurisdiction so transferred.

19. The jurisdiction by this Ordinance vested in the Court shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance or other statutory provision.

Mode of
exercise of
jurisdiction.

20. In every civil cause or matter commenced in the Court, law and equity shall be administered according to the rules following :—

Law and
equity to be
concurrently
administered.

(1.) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, which heretofore could only have been given by a Court of Equity, the Court and every Judge thereof shall give to such plaintiff or petitioner such and the same relief as ought to be given by the High Court of Justice in England in an action or proceeding for the same or the like purpose.

(2.) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the Court and every Judge thereof shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the High Court of Justice in England ought to give if the same or the like matters were

relied on by way of defence in any action or proceeding instituted in that Court for the same or the like purpose.

(3.) The Court and every Judge thereof shall also have power to grant to any defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant properly claims by his pleading, and as the Court or any Judge thereof might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to any rule of Court or any order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim, as if he had been duly sued in the ordinary way by such defendant.

(4.) The Court, and every Judge thereof, shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would recognise and take notice of the same in any action or proceeding duly instituted therein.

(5.) No cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto: Provided always, that nothing in this Ordinance contained shall disable the said Court from directing a stay of proceedings in any cause or matter pending before it if it thinks fit; and any person, whether a party or not to any such cause or matter, who would have been entitled to apply to any Court to restrain the prosecution thereof, or

who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the said Court, by motion in a summary way, for a stay of proceedings in such cause or matter, either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as may be just.

(6.) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and to the other express provisions of this Ordinance, the Court and every Judge thereof shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations and liabilities existing by the Common Law or by Spanish law, or by any custom, or created by any Order in Council, Ordinance or other statute, in the same manner as the same have hitherto been recognised and given effect to.

(7.) The Court, in the exercise of the jurisdiction vested in it by this Ordinance, in every cause or matter pending before it, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to such Court seems just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

21.—(1.) In the administration by the Court of the assets of any person whose estate may prove to be insufficient for the payment in full of his debts and liabilities, and in the winding up of any company under the Companies Ordinance, whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt; and all persons who in any such case would be

Administra-
tion of assets
of insolvent
estates.

entitled to prove for and receive dividends out of the estate of any such deceased person, or out of the assets of any such company, may come in under the decree or order for the administration of such estate, or under the winding up of such company, and make such claims against the same as they may respectively be entitled to by virtue of this Ordinance.

Statutes of
Limitation
inapplicable to
express trusts.

(2.) No claim of a *cestui que* trust against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations.

Equitable
waste.

(3.) An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such estate.

Merger.

(4.) There shall not be any merger by operation of law only of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Suits for
possession of
land by
mortgagors.

(5.) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land, as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof has been given by the mortgagee, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relating thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

Assignment of
debts and
choses in
action.

(6.) Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing has been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Ordinance had not passed) to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge

for the same, without the concurrence of the assignor : Provided always, that if the debtor, trustee, or other person liable in respect of such debt or chose in action has had notice that such assignment is disputed by the assignor or anyone claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same.

(7.) Stipulations in contracts, as to time or otherwise, which are not deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all Courts the same construction and effect as they would have received in equity. Stipulations not of the essence of contracts.

(8.) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally or upon such terms and conditions as the Court thinks just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and whether the estates claimed by both or by either of the parties are legal or equitable. Injunctions and receivers.

(9.) In any cause or proceeding for damages arising out of a collision between two ships, if both ships are found to have been in fault, the rules in force in the High Court of Justice in England shall prevail. Damages by collisions at sea.

(10.) In questions relating to the custody and education of infants the rules of equity shall prevail. Infants.

(11.) Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the rules of equity and the rules of the Common Law with reference to the same matter, the rules of equity shall prevail. Cases of conflict not enumerated.

22. No action shall be open to objection on the ground that a merely declaratory decree or order is sought. Declaratory order.

Powers of
single Judge.

23. Except in respect of the causes and matters which are by statutory provision directed to be heard and determined by a full Court, any single Judge sitting in Court may exercise all or any part of the jurisdiction by this Ordinance vested in the Court, and when sitting for the purpose of such exercise shall be deemed to constitute a Court; and any single Judge sitting in Chambers may exercise all or any part of the jurisdiction aforesaid in all such causes and matters and in all such proceedings in any causes or matters as hitherto have been heard in Chambers by a single Judge.

Original
hearing.

24. Subject to any statutory provision, every action and proceeding and all business arising out of the same shall so far as is practicable and convenient be heard, determined, and disposed of before a single Judge; and all proceedings in an action subsequent to the hearing or trial and down to and including the final judgment or order, except any proceedings on appeal, shall so far as it is practicable and convenient be had and taken before the Judge before whom the trial or hearing took place.

Appeal from
single Judge.

25. Subject to the provisions of this Ordinance, in any cause or matter, not being a criminal proceeding at the suit of the Crown, an appeal to a full Court shall lie from any judgment given or order made or refused by a single Judge.

Provided that no order made by the consent of parties or as to costs only which by law are left to the discretion of the Court shall be subject to any appeal except by leave of the Judge making such order.

Appeals from
Magistrates.
No. 1.

26. Appeals under the Summary Conviction Offences (Procedure) Ordinance arising in Trinidad shall be heard and determined by a full Court if there are in the Colony two or more Judges not incapacitated from acting by illness or interest, but if there is only one Judge in the Colony not incapacitated as aforesaid, such appeal shall be heard and determined by such Judge alone, and his decision shall be final and without appeal.

Power to
reserve
questions of
law on a
criminal trial.

27. Where any person is convicted of any indictable offence, the Judge or Judges before whom the case is tried may in his or their discretion reserve any question of law arising on the trial for the consideration of a full Court;

and thereupon if he or they think fit may respite execution of the judgment on such conviction, or postpone the judgment until such question has been considered and determined, and either commit the person convicted to prison or take a recognizance of bail with one sufficient surety or two or more sufficient sureties and in such sum as to him or them seems fit, conditioned that the person convicted do appear, at such times and places as are from time to time appointed by such Judge or Judges or by the full Court, and receive judgment or render himself in execution as the case may be.

28. The Judge or Judges by whom upon any trial for an indictable offence a question of law is reserved shall state the question with the special circumstances upon which the same has arisen, and shall direct such statement to be specially entered upon the record. Statement of question reserved.

29. Where upon any trial for an indictable offence a question of law has been reserved, a full Court shall consider and determine such question after hearing Counsel or the parties, if the Public Prosecutor or person convicted thinks it fit that the case should be argued, and the full Court may either— Power of full Court in Crown Cases reserved.

- (1.) Confirm the judgment given upon the indictment, or
- (2.) Order that such judgment be set aside notwithstanding the verdict (which order shall for all purposes have the same effect as if the defendant had been acquitted), or
- (3.) Order that such judgment be set aside and give instead thereof the judgment which ought to have been given at the trial, or
- (4.) Make such other order as justice requires.

The full Court may, if it thinks fit, require the Judge or Judges by whom the question is reserved to amend the statement specially entered on the record.

30. Where upon any trial for an indictable offence a question of law is reserved and thereupon a recognizance is entered into, the same proceedings may be had upon such recognizance as are mentioned in Section 85 of the Criminal Procedure Ordinance. Retreating recognisances. No. 13.

31. The Court may, upon application by or on behalf of the Attorney-General, if it appears to such Court that any Power to issue writ ad melius inquirendum.

No. 8.

inquest is, either by reason of the defective report of a District Medical Officer or for any other cause, inadequate, notwithstanding anything in the Coroners' Ordinance or any other Ordinance, issue a writ *ad melius inquirendum*, directed either to the Coroner whose inquest is inadequate, or to such Coroner together with any other person or persons, or to any person or persons other than such Coroner, whom the Court thinks fit.

Power to revise
proceedings of
inferior
Courts.

32. Upon application by or on behalf of the Attorney-General, the Court may, if it thinks fit, order any Judge, Commissioner or Justice presiding in any inferior Court, to send to the Registrar the record of proceedings in any case, and may also if it thinks fit, require in addition to such record a statement showing in detail the proceedings taken in reference to the whole case or any particular matter, and if it appears to the Court that there has been any material error in the proceedings of such inferior Court, the Court may set aside or vary any judgment, order or proceedings of such inferior Court, and pass such judgment or order, and remit the case or matter to the inferior Court with such directions as justice requires.

It shall be in the discretion of the Court to exercise the powers given to it by this section either without hearing any person or after hearing such persons as it thinks fit, and the Court may, if it thinks fit, direct that an order *nisi* be served upon such persons as the Court thinks fit, and upon making absolute any such order *nisi* may order the costs to be paid by all or any of the parties served as the Court thinks just.

“Inferior Court” in this section means the Court of any Stipendiary or other Justice or Justices of the Peace, and any Court presided over by any person acting as a Judge under any Ordinance relating to Petty Civil or District Courts.

Summary
Jurisdiction at
law.

33. It shall be lawful for the Supreme Court to exercise a summary jurisdiction at law in all actions where the amount of the claim, debt or damages sought to be recovered does not exceed the sum of two hundred pounds, and in all actions for the recovery of the possession of lands where the value of such lands does not exceed the sum of five hundred pounds.

34. It shall be lawful for the Court to exercise a summary jurisdiction in equity in the actions or matters hereinafter mentioned; that is to say, Summary jurisdiction in equity.

- (1.) In all actions by creditors, legatees (whether specific, pecuniary or residuary), devisees, or next of kin, for an account or administration of the personal estate of any deceased person where such personal estate does not exceed in amount or value the sum of two hundred pounds:
- (2.) In all actions for the execution of trusts in which the trust estate or fund does not exceed in amount or value the sum of two hundred pounds:
- (3.) In all actions for foreclosure or redemption, or for enforcing any mortgage charge or lien, where the principal sum secured or demanded does not exceed the sum of two hundred pounds:
- (4.) In all actions for the specific performance of, or for the reforming, delivering up or cancelling of any agreement for the sale, purchase or lease of any property where, in the case of a sale or purchase, the purchase money, or in the case of a lease, the value of the property, does not exceed the sum of two hundred pounds:
- (5.) In all actions for the dissolution or winding up of any partnership where the whole property, stock and credits of such partnership does not exceed in amount or value the sum of two hundred pounds:
- (6.) In all actions for partition or for sale in lieu of partition, where the value of the property to which the action relates does not exceed the sum of two hundred pounds:
- (7.) In all proceedings for orders in the nature of injunctions, where the same are requisite for granting relief in any matter in which summary jurisdiction in equity is given to the Court by this Ordinance.

35. If any plaintiff is satisfied to recover a sum not exceeding two hundred pounds the Court may entertain the action of such plaintiff in its summary jurisdiction, and in case any order is made in favour of such plaintiff, the same shall be expressed to be and shall be in full discharge of the whole cause of action. Abandoning excess.

Splitting
claims.

36. No cause of action which exists at any one time amounting in the whole to a sum exceeding two hundred pounds shall be split or divided so as to be made the ground of two or more different actions in order to bring such cases within the summary jurisdiction of the Court, but if such Court finds that the plaintiff in any case has split his cause of action as aforesaid, such Court shall dismiss the action without prejudice to the plaintiff's right to sue upon the cause of action in such other manner as he may be advised.

Questions of
jurisdiction
dependent on
value.

37. Any Judge of the Court sitting in the exercise of its summary jurisdiction may determine whether any cause or matter is within the summary jurisdiction so far as such determination depends upon any question as to the amount or value of any fund or property, and such determination shall be final and conclusive subject to this qualification, that if in the course of any subsequent proceeding it appears that the estimate made of such amount or value was erroneous, any Judge sitting as aforesaid may, if he thinks fit, order any further proceedings to be taken under the ordinary jurisdiction, but without prejudice to the validity of any proceedings prior to such order.

Power to sit at
any time.

38. Subject to any statutory provision the Court and each of the Judges thereof shall have power at any time and at any place in this Colony to sit and act for the transaction of any part of the business of such Court or Judges, or for the discharge of any duty which by any Order in Council, Ordinance or otherwise is required to be discharged.

Special
criminal
sittings.

39. The Governor may at any time by warrant under his hand and the seal of the Colony require the Judges of the Court to appoint special sittings to be held at such time or times as may be directed by the warrant for the trial of any particular criminal case or cases or class of criminal cases, and such Judges shall appoint and hold sittings accordingly and so far as is necessary in order to comply with the exigency of the warrant shall lay all other business aside.

Sittings in
Tobago.

40. Sittings of the Court for the trial of criminal and civil cases and for hearing appeals from the decisions of Magistrates shall be held in Tobago at least three times in every year, at such times and places as shall be appointed by Rules of Court made under this Ordinance, or if and whenever there shall be no such Rules of Court appointing the times and places of such sitting, then as shall be appointed

by the Governor; such sittings shall be held by a single Judge who shall, for the purpose of trials and appeals to be had thereat, have and exercise all the powers and authorities of the said Court. Provided that, except in cases of appeals from the decisions of Magistrates, there shall be a right of appeal from the decisions and judgments of such single Judge sitting as aforesaid to the Full Court, such appeals to be made, heard and determined in the same manner as appeals from the decisions and judgments of a single Judge to the Full Court.

41. Sittings for civil business of the Court in Tobago shall be for the trial of civil cases within the Summary Jurisdiction of the Court only; all actions and proceedings within the ordinary jurisdiction of such Court arising in Tobago shall be commenced by process issuing out of the principal registry and tried in Port-of-Spain, subject to the power of the Court to direct that any particular trial may be held before a Judge of such Court sitting in Tobago. Civil business in Tobago.

42. Civil causes to be heard in the summary jurisdiction of the Court in Tobago shall in all cases be tried before a Judge alone without a jury. No Jury in Tobago civil cases.

43. In every year the period from the twenty-sixth day of June to the third day of October (both days being included) or such other period as may be appointed by Rules of Court under this Ordinance, shall be observed as a vacation by the Court, but such vacation shall not extend to the summary jurisdiction of the said Court, or to appeals under the Summary Conviction Offences (Procedure) Ordinance. Vacations. No. 1. During any vacation one Judge at least shall remain in the Colony.

44. Provision shall be made by Rules of Court for the hearing whether during vacation or not of all such applications as require to be immediately or promptly heard. Urgent matters.

45. Sittings of the Court for the trial of criminal cases shall be held in Port-of-Spain and San Fernando, and so far as is practicable consistently with the observance of the vacation appointed by this Ordinance, such sittings shall be held at intervals not exceeding two months. Ordinary criminal sittings.

46. The Chief Justice with the concurrence of a Puisne Judge may from time to time make rules for carrying this Power to make Rules of Court.

Ordinance into effect, and in particular for all or any of the following matters, that is to say :—

- (1.) For regulating the sittings of the Court and the Judges thereof sitting in Chambers, and the period to be observed as a vacation, and
- (2.) For regulating the pleading, practice and procedure in the Court, and
- (3.) Generally for regulating any matters relating to the practice and procedure of the Court, or to the duties of the officers thereof, or to the costs of or fees upon proceedings therein, and
- (4.) Providing what (if any) judicial functions in addition to his duties as Registrar shall be from time to time exercised by the Registrar and in his absence by the Sub-Registrar in Tobago.
- (5.) For altering or annulling any Rules of Court previously made.

Approval of
Rule of Court
by Legislative
Council.

47. Subject to the provisions of this Ordinance, Rules of Court made under this Ordinance shall not have any force or effect until they have been approved by the Governor and the Legislative Council, and when so approved shall have the same force and effect as if they were contained in an Ordinance, and may be disallowed by His Majesty in the same manner and with the same consequences as in the case of an Ordinance. Any such rules approved as aforesaid shall, subject to disallowance by His Majesty, come into operation on the day appointed in such rules in this behalf, or if no day is so appointed, on such day as the Governor by proclamation appoints.

Disallowance by His Majesty under this section shall take effect upon and from the day on which the proclamation notifying the same is published in the *Royal Gazette*, and shall not affect any proceedings taken before such publication.

Rules not
requiring
approval by
Legislative
Council.

48. Notwithstanding anything contained in this Ordinance, the Chief Justice with the concurrence of a Puisne Judge may from time to time make, alter and revoke any such Rules of Court, orders or regulations, as any of the Courts whose jurisdiction is now vested in the Court or the Judges of any such Court might have made of their own sole authority, and such rules, orders or regulations shall not require the approval of the Legislative Council, but they shall be read subject to any statutory provisions.

49. Subject to any statutory provisions, the practice and procedure in all criminal causes and matters whatsoever shall be the same as the practice and procedure in similar causes and matters hitherto prevailing. Saving procedure in criminal cases

50. Nothing contained in or deriving authority from this Ordinance, save as far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trials by jury, or the rules of evidence or the law relating to jurymen or juries. Saving as to evidence.

51. Save as may be otherwise provided by statutory provisions, all forms and methods of proceeding which have hitherto been in force under or by virtue of any law, custom, general order or rules whatsoever, and which are not inconsistent with any statutory provision, may continue to be used and practised. General saving of existing procedure.

52. All Orders in Council and Ordinances relating to the several Courts whose jurisdiction is now vested in the Court, or to the Judges of any such Courts, or wherein any of such Courts or Judges are mentioned or referred to, shall be construed and take effect as if the Court and the Judges thereof, as the case may be, had been named therein; and in all cases, not by any statutory provision expressly provided for, in which the concurrence or the advice or consent of any Judge or Judges is necessary to the exercise of any power or authority capable of being exercised, such power or authority may be exercised by the Chief Justice and a Puisne Judge of the Court. Laws relating to former Courts to be read as applying to Courts under this Ordinance.

53. Where any provisions in respect of the practice or procedure of or in any Court whose jurisdiction is now vested in the Supreme Court are contained in any Order in Council or Ordinance, Rules of Court may be made modifying such provisions to any extent that may be deemed necessary for adapting the same to the Supreme Court. Power to adapt enactments relating to procedure or practice.

Any provisions relating to the payment, transfer or deposit into or in or out of any Court of any money or property or to the dealing therewith, shall for the purposes of this section be deemed to be provisions relating to practice and procedure.

54. All clerks, Commissioners to take oaths or affidavits, messengers and other officers and assistants and all regis- Existing officers of Court.

trars, clerks, officers and other persons engaged in the preparation or execution of commissions or writs or in the registration of judgments or in any other ministerial duties, shall be attached to the Court and shall discharge such duties as may be prescribed by statutory provision, but the duties required to be performed by any officer shall be the same as or analogous to the duties which he has hitherto performed, and subject to any such statutory provision every such officer shall continue to perform as nearly as may be the same duties as were hitherto performed by him.

The Registrar of the Court and the other officers attached to the Court shall hold their offices by the same tenure and upon the same terms and conditions and receive the same salaries and if entitled to pensions be entitled to the same pensions as if this Ordinance had not passed.

Prohibition of
unqualified
persons
practising as
conveyancers.

55.—(1.) Any person who not being a barrister or advocate or a person duly qualified according to law to practise as a conveyancer draws or prepares either directly or indirectly for or in expectation of any fee, gain or reward, or receives any fee, gain or reward for drawing or preparing any deed or conveyance, and

(2.) Any person who not being either

(a.) A barrister or advocate or person duly qualified according to law to practise as a conveyancer, or

(b.) A Solicitor of the Court or a Notary Public,

draws or prepares directly or indirectly, for or in expectation of any fee, gain or reward, or receives any fee, gain or reward for drawing or preparing any deed, conveyance or other legal document whatsoever, shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty not exceeding twenty-five pounds: Provided that this section shall not apply to any person drawing or preparing any will or other testamentary papers.

No. 35.

AN ORDINANCE for improving the Remedies of Creditors
against the Property of their Debtors.

1. This Ordinance may be cited as the Remedies of Creditors Ordinance. Short title.

2. For the avoiding and abolishing of feigned covinous and fraudulent gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, as well of lands and tenements as of goods and chattels devised and contrived of malice, fraud, covin, collusion, or guile, to the end, purpose and intent to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties and forfeitures, all and every gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels or of any of them, or of any lease, rent or other profit or charge out of the same lands, tenements, hereditaments, goods and chattels or any of them, by writing or otherwise, and all and every bond, suit, judgment and execution at any time to be had or made to or for any intent or purpose before declared and expressed, shall be deemed and taken only as against that person or persons, his or their heirs, successors, executors, administrators and assigns and every of them whose actions, suits, debts, accounts, damages, penalties and forfeitures by such guileful, covinous or fraudulent devises and practices as is aforesaid, are, shall or might be in anywise disturbed, hindered, delayed or defrauded, to be clearly and utterly void, frustrate and of none effect; any pretence, colour, feigned consideration, expressing of use or any other matter or thing to the contrary notwithstanding. All covinous gifts, grants, &c., to be void.

3. Anything herein contained shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, profits, goods or chattels made, conveyed or assured, which estate or interest shall be upon good consideration and *bond fide* lawfully conveyed or assured to any person or persons, or bodies politic or corporate, not having at the time of such conveyance or assurance to them made any manner of notice or knowledge of such covin, fraud or collusion as is aforesaid, anything before mentioned to the contrary notwithstanding. Proviso as to conveyances for good consideration. *bond fide*.

Judgment to
operate as a
charge on real
estate.

4. A judgment or decree to be entered up against any person in the Supreme Court in this Colony shall operate as a charge upon all lands, tenements, rents and hereditaments of or to which such person shall at the time of entering up such judgment or decree or at any time afterwards be seized, possessed or entitled, for any estate or interest whatever, whether in possession, reversion, remainder or expectancy, or over which such person shall at the time of entering up such judgment or decree, or at any time afterwards, have any disposing power which he might without the assent of any other person exercise for his own benefit, and shall be binding as against the person against whom such judgment or decree shall be entered up, and against all persons claiming under him after such judgment or decree, and shall be also binding as against the issue of his body, and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion, or other interest in or out of any of the said lands, tenements, rents and hereditaments.

Decrees,
orders, rules,
&c., to have
effect of judgments.

5. All decrees and orders of the Supreme Court made in any suit, and all rules of the said Court made in any action whereby any sum of money, or any costs, charges or expenses shall be payable to any person, shall have the effect of judgments in the Supreme Court, and the persons to whom any such monies or costs, charges or expenses shall be payable shall be deemed judgment creditors within the meaning of this Ordinance, and all remedies hereby given to judgment creditors are in like manner given to persons to whom any monies or costs, charges or expenses are by such decrees, orders or rules respectively directed to be paid.

No judgment,
decree, &c.,
to affect real
estate, until
registered.

6. No judgment or decree of the Supreme Court in this Colony shall affect any lands, tenements or hereditaments as to purchasers, mortgagees or creditors, or have any preference against heirs, executors or administrators, in the administration of their ancestors', testators' or intestates' estates, any notice to any such purchaser, mortgagee or creditor, or to any such heir, executor or administrator notwithstanding, unless and until a memorandum or minute containing the name and the usual or last known place of abode and the trade or profession of the person whose estate is intended to be affected thereby and the title of the cause or matter in which such judgment, decree, order or rule shall have been obtained or made, and the

date of such judgment, decree, order or rule, and the amount of the debt, damages, costs or monies thereby recovered or ordered to be paid, shall be left with the Registrar-General, who shall forthwith enter the same particulars, together with the year and the day of the month when such memorandum or minute is so left with him, in a book in alphabetical order by the name of the person whose estate is intended to be affected by such judgment, decree, order or rule, and such Registrar shall be entitled for any such entry to the sum of five shillings sterling, and all persons shall be at liberty to search the same book on payment of the sum of one shilling sterling.

7. All such judgments and decrees as shall be so registered as hereinbefore directed, shall, after the expiration of three years from the date of the entry thereof, be null and void against lands, tenements and other hereditaments, as to purchasers, mortgagees and creditors, and shall not have any preference against heirs, executors or administrators in the administration of their ancestors', testators' or intestates' estates, unless a like memorandum or minute, as was required in the first instance, is again left with the Registrar-General within three years before the execution of the conveyance, settlement, mortgage, lease or other deed or instrument vesting or transferring the right, title, estate or interest in or to any such purchaser or mortgagee for valuable consideration, or as to creditors within three years before the right of such creditors accrued, or as to heirs, executors or administrators within three years before the death of the testator or intestate, and so *toties quoties* at the expiration of every three years; and the Registrar shall forthwith re-enter the same in like manner as the same was originally entered, and such Registrar shall be entitled for any such re-entry to the sum of one shilling sterling.

Judgments, decrees, &c., to be again registered after the expiration of three years.

8. Nothing in this Ordinance contained shall extend to affect or prejudice any judgment as between the parties thereto, or their representatives, or those deriving as volunteers under them.

No judgment to be prejudiced as between the parties.

9. Every judgment debt to be hereafter entered up shall carry interest at the rate of six pounds per centum per annum from the time of entering up the judgment until the same shall be satisfied, and such interest may be levied under a writ of execution on such judgment.

Judgment debt to carry interest.

Stocks and
share of
debtor
standing in
his name to be
charged by
order of a
Judge.

10. If any person against whom any judgment shall have been entered up in the Supreme Court in this Colony shall have any stock or shares of or in any public company carrying on business in this Colony (whether incorporated or not) standing in his name in his own right or in the name of any person in trust for him, it shall be lawful for a Judge of such Court on the application of any judgment creditor to order that such shares, or such of them, or such part thereof respectively as he shall think fit, shall stand charged with the payment of the amount for which judgment shall have been so recovered and interest thereon, and such order shall entitle the judgment creditor to all such remedies as he would have been entitled to if such charge had been made in his favour by the judgment debtor.

Order of Judge
to be made
in the first
instance
ex parte, and
on notice to
the Company
to restrain a
transfer.

11. In order to prevent any person against whom judgment shall have been obtained from transferring, receiving or disposing of any stock or shares hereby authorized to be charged for the benefit of the judgment creditor under an order of a Judge, every order of a Judge charging any stock or shares in any public company under this Ordinance shall be made in the first instance *ex parte*, and without any notice to the judgment debtor, and shall be an order to show cause only: and such order, if any stock or shares of or in any public company, standing in the name of the judgment debtor in his own right, or in the name of any person in trust for him, is or are to be affected by any such order, shall restrain such public company from permitting a transfer thereof; and if after notice of such order to the person or persons to be restrained thereby, or in case of corporations, to any authorized agent of such corporation, and before the same order shall be discharged or made absolute, such corporation or person or persons shall permit any such transfer to be made, then and in such case the corporation or person or persons so permitting such transfer shall be liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as shall be sufficient to satisfy his judgment, and no disposition of the judgment debtor in the meantime shall be valid or effectual as against the judgment creditor, and further, unless the judgment debtor shall within a time to be mentioned in such order show to a Judge of the Supreme Court sufficient cause to the contrary, the said order shall after proof of notice thereof to the judgment debtor, his attorney or agent, be

made absolute; provided that any such Judge shall upon the application of the judgment debtor or any person interested, have full power to discharge or vary such order and to award such costs upon such application as he may think fit.

12. All the provisions hereinbefore contained with regard to the charging any stock or shares shall be deemed and taken to extend to the interest of any judgment debtor, whether in possession, remainder or reversion, and whether vested or contingent, as well in any such stock or shares aforesaid as also in the dividends, interest or annual produce of any such stock or shares.

Interest vested or contingent in stock, interest or dividends.

13. No mortgage [not being a tacit mortgage] shall be deemed or taken to charge or affect any property real or personal, or to entitle any persons claiming under or by virtue of such mortgage to preference or priority of payment of his mortgage debt out of any property real or personal, save and except such property as shall be expressly conveyed, assigned or charged by such mortgage.

Tacit mortgages only to affect property not specifically conveyed or charged.

14. No proceeding by way of *terceria* shall be allowed in respect of any personal or moveable property, goods, debts, chattels or effects taken in execution or levied upon or sold by the Marshal; but the Marshal shall be subject to such and the like actions at the suit of any person claiming any right in or to any such personal or moveable property, goods, debts, chattels or effects or the proceeds or any part of the proceeds of the sale thereof, as the Sheriff would be subject to in the like case by the law of England.

No *terceria* allowed in respect of moveable property.

15. Every judgment or order of the Supreme Court for the recovery from or payment by any person of an ascertained sum of money may be enforced by execution, the order for which shall be issued under the seal of the Court to the Marshal on payment of the prescribed fees.

Judgment for recovery of money enforceable by execution.

16. No order for execution shall issue unless the party requiring the same shall file a request for the same: such request shall contain the title of the action, the reference to the record, the date of the judgment and the name of the party against whom the same is to be issued, and shall be signed by the Solicitor of the party entitled thereto, or if such party has appeared in person, by himself.

How order for execution shall issue.

17. The Marshal or his Assistant in executing any writ

Marshal need

not exhibit writ, etc.

of execution shall not be bound to exhibit such writ to the defendant, unless requested by the defendant so to do, nor to demand satisfaction of such writ from the defendant, but it shall be lawful for the Marshal or his Assistant to make execution of any moveable property, and in default thereof of any immoveable property of the defendant, in the absence of and without any previous notice to the defendant, any law or custom to the contrary in anywise notwithstanding.

Effect of order for execution.

18. The order for execution shall not specify the mode in which or the description of the property upon which execution is to be levied. It shall bear the date of its issue and be drawn by the party requiring it and be endorsed with the name and address of the Solicitor applying for it together with the name and address of the Solicitor (if any) for whom he acts as agent in so applying; or with a memorandum (according to the fact) that the same has been obtained by the party entitled thereto in person and a sufficient address of such party, and be approved by the Registrar of the Supreme Court and bear the seal of such Court and be issued to the party entitled thereto, who shall deliver the same to the Marshal for enforcement.

Marshal in first instance to execute order by seizure of goods.

19. On receipt of an order for execution the Marshal shall forthwith proceed in the first instance to levy the amount authorized or so much thereof as is capable of being levied, together with the prescribed costs of execution, by seizure and sale of the personal goods and chattels and effects of the debtor, other than chattel interests in land.

Marshal not compelled to levy except upon written instructions.

20. The Marshal shall not be compelled to levy unless the execution creditor or his Solicitor or agent shall have given him on demand instructions in writing stating the name, residence and place of business of the party against whom the execution is issued, or to levy on any property real or personal until the same is pointed out or otherwise sufficiently indicated to him by the execution creditor or some person authorized on his behalf.

Goods and chattels to be sold by Marshal for cash.

21. All chattels and other personal property seized by the Marshal under any order of execution shall be sold by the Marshal for ready money and for the best price which can be obtained for the same at public sale as soon as conveniently may be after six clear days notice of sale in some public newspaper of the Colony.

22. If the personal property or any part thereof taken in execution shall consist of a moveable house or other chattel in the nature of a tenant's fixture on any land, the Marshal shall not complete his levy by sale thereof till after ten days shall have expired from the service on the owner of the land or the person in actual receipt of the rent, of notice of his levy on such house or chattel.

Ten days notice of sale to be served on landlord where moveable house or other tenants fixture taken in execution.

23. In the event of the Marshal being unable to ascertain the owner of the land or the person in receipt of rent, such notice as in the last section provided may be served by leaving a copy thereof with any person in actual occupation of the land or of any house or tenement thereon.

Service of notice when owner not ascertained.

24. Any claim or objection made by or on behalf of the owner of the land within ten days from service of such notice shall be dealt with by the Marshal by way of interpleader, in manner provided by the Rules of the Supreme Court 1898 in respect of Interpleader, or any Rules that may be substituted for the same. In the absence of any such claim or objection the Marshal shall proceed to complete his levy by sale at the expiration of such ten days, and such sale shall be valid and effectual against such owner or any person claiming under him.

Claim or objection by owner of land to be determined by way of Interpleader.

On expiration of notice without claim or objection, Marshal to sell.

25. The Marshal shall endorse on the order for execution the result of any levy made by him on the personal property of the execution debtor, or (if the fact be so), that no goods of such debtor have been pointed out or otherwise indicated or are otherwise known to him on which a levy can be made, and shall forthwith, before returning the same into Court, give notice of such endorsement to the execution creditor or his solicitor. And in respect of any sum recoverable after giving credit for any sum realized by sale of chattels under Section 19 hereof, the creditor shall at any time thereafter, subject to the provisions hereinafter contained, be entitled to an order for the sale of any beneficial interest of the execution debtor in any lands, tenements and hereditaments within the Colony, whether such interest be legal or equitable, or be of a freehold or chattel nature, or be several or joint or in common with others, and whether in possession, reversion or remainder.

Marshal to endorse on order result of levy and notify execution creditor.

Remedies by sale of debtor's interests in lands where goods insufficient to satisfy order for execution.

"Order for Sale."

26. Provided always that it shall be the duty of the Marshal, when called upon by either the execution creditor or the debtor, at any time before any actual sale of any

Marshal to levy on goods which before actual sale of

land shall become known to him to be the debtor's.

interest in land under the provisions hereof, to execute the order for execution by levying upon any personal chattels of the debtor that may be pointed out or otherwise become known to him.

"Order for Sale" obtainable on a "Summons for Sale."

27. Such order as in Section 25 hereof mentioned is hereinafter called an "order for sale" and shall be obtained by the party entitled thereto on a summons to be heard by a Judge of the Supreme Court in Chambers, hereinafter referred to as a "summons for sale" to be entitled in the action or other proceeding in course of which the order for execution has been made.

Marshal on request of creditor to enter on lands and remain in possession pending hearing of summons for sale.

28. The Marshal shall at the written request of the creditor or his solicitor and upon receiving the prescribed fee make execution for the judgment debt and costs by seizure of any lands of which the execution debtor is in actual possession; and in such case his endorsement on the order for execution shall state the fact of his having so seized, and also the nature and extent of the interest of the debtor alleged by the creditor in justification of his requiring the Marshal so to seize. The Marshal shall forthwith return the order for execution into Court so endorsed together with a statement of the extent and description of the lands and hereditaments so seized, and he shall notify the execution creditor or his solicitor of such return.

Particulars to be endorsed on order for execution by Marshal upon his entering into possession of lands.

Summons for sale to be taken out by creditor where return of order shews that available interest of debtor in any land is not in possession, or that entry would affect third parties.

29. On the return of the order for execution so endorsed, or without any seizure or any return thereof in cases in which it is shown that the available interest in any land of the debtor is not in actual possession, or cannot be subjected to immediate entry or seizure without prejudicially affecting the rights of other persons not parties to the proceedings, the execution creditor may in the prescribed manner take out a summons for sale, to be served upon the execution debtor or any other person or persons sought to be affected by the order to be made thereon, and the Marshal shall be a party to every such summons and shall attend the same.

Summons to be served in the same way as originating summons, and to be supported by affidavit of particulars of debtor's interest in lands.

30. The summons in the last section provided for shall be served in the same way as an originating summons in the Supreme Court and be returnable on a convenient day not less than six days from the service thereof on the last of the persons to be served; and at the hearing thereof the creditor shall produce an affidavit stating to the best of the knowledge and belief of the deponent, the title to the hereditaments sought to be affected and the nature, extent

and value of the interest of the debtor and of other material persons therein, and referring by their registered numbers to the material deeds and assurances affecting the same, and any persons served therewith may be heard, and the debtor and such witnesses may be subpœnaed on behalf of the execution creditor and of any persons (other than the debtor) served with the summons, as may be required, and may be examined on oath touching the respective rights, titles, interests and equities in the premises sought to be affected of the debtor and of such persons respectively.

31. A summons for sale may also issue without the issue of any order for execution by any judgment creditor who has registered his judgment against the debtor and whose registration is for the time being in force and effective, on the filing of an affidavit showing to the best of the knowledge of the applicant or other deponent the lands, tenements and hereditaments to which it is alleged the debtor is beneficially entitled, and the nature of such beneficial interest, and referring by their registered numbers to the material deeds and assurances affecting the premises, and giving the names and addresses of the persons to be served.

Summons for sale to issue on filing of affidavit by registered judgment creditor.

32. If at the return of the summons for sale it shall be proved to the satisfaction of the Judge that the debtor is entitled to the sole immediate unconditional beneficial interest legal or equitable in the lands sought to be affected, or in any several and ascertained portion thereof, there shall be a declaration accordingly, and the same shall be ordered to be sold on such conditions as to advertisement, date and conditions of sale and description, reserved price, if any, and otherwise as the Judge shall by his order direct, and the Registrar shall after such sale has been confirmed as hereinafter is provided, execute and deliver to the purchaser thereof without further order a conveyance thereof in fee, to be prepared by the purchaser and which shall (subject as to land under the Real Property Ordinance to the provisions of that Ordinance) have the same effect as if the execution debtor had conveyed the same to the purchaser for all his estate and interest therein.

On return of summons Judge may order unconditional beneficial interest of debtor in lands to be sold.

33. The Judge may at his discretion on the return of a summons for sale or on any adjournment thereof in any case, and shall in any of the following cases, that is to say :

Title to be referred to a Barrister or Conveyancer in certain cases.

- (a). When it is made to appear that the value of the premises sought to be affected exceeds £100 ;

- (b.) When required to do so by or on behalf of the execution creditor ;
- (c.) When it is made to appear that the debtor is entitled to any several beneficial legal or equitable estate or interest in the premises other than the sole immediate unconditional beneficial interest therein ;
- (d.) When it is made to appear that the debtor is entitled to an interest legal or equitable which is not several but is joint or in common with other persons or to an interest which is in reversion or remainder and not in possession, or to an estate for life or for an estate or term (other than a term of years certain) terminable on the happening of any event

direct that a Barrister or Conveyancer to be named by such Judge not being concerned as counsel or solicitor on the summons shall report to him as to the title of the defendant to the premises in respect of which any order for sale is applied for. And the fact of the order for such report being so made shall be entered on and the report itself when made shall be filed with the proceedings in every such case. The fee of such Barrister or Conveyancer shall be according to the scale of fees to be prescribed under the provisions of Section 62 hereof ; and shall in each case be paid in the first instance by the execution creditor or other the party having the carriage of the proceedings, and shall be a charge on the proceeds of any sale under the order.

Judge may direct issue between judgment creditor and others interested to be tried as in an action.

34. The Judge may, on the return of a summons, direct the trial in any manner applicable to the trial of any issue in an action, of any question arising between the judgment creditor and the debtor or any person claiming to be entitled to any estate or interest in lands to which the debtor is alleged to be entitled ; either as to the legal ownership of such lands, or the validity of any disputed title thereto or interest therein, or as to the *bonâ fides* or validity of any alleged conveyance, settlement, gift, mortgage or other alienation thereof, or as to any dispute respecting the parcels of any such conveyance, settlement or gift, or as to the extent and nature of any interest therein, and for the purposes of such trial may give such directions as to notices, pleadings, discovery and otherwise, as may by any interlocutory order be given before trial in any action in the Supreme Court.

35. The Rules and Orders of the Supreme Court for the time being as to substituted service and notice in lieu of service shall be applicable to the service of a summons for sale and of notice thereof; and it shall be lawful for a Judge at his discretion to direct that any one of any class of persons interested jointly or in common for any interest other than the fee simple in possession legal or equitable of and in any lands may be served with, or having been served may appear to any summons for sale on behalf of or as representing the other or others of such class, and any trustee shall for the purpose of such summons be deemed to represent his *cestuis que trustent*, and any executor or administrator, beneficiaries under a will or intestacy, except in so far as the Judge may otherwise direct, and be served and appear on their behalf.

Substituted service and service on and appearance for parties represented.

36. If at the hearing of the summons it shall appear that the debtor is entitled to any several beneficial legal or equitable estate or interest in the premises sought to be affected, other than the sole immediate unconditional beneficial interest legal or equitable or is solely entitled to any present chattel interest therein, the Judge shall by his order declare the nature and extent of such beneficial interest, and such declaration shall be binding on all persons duly summoned either in person or by service thereof on some person as representing a class and all persons claiming under them respectively, and the same may in like manner be sold, and a conveyance thereof given by the Registrar by the description so declared, and the effect of such conveyance shall be the same as if the debtor had executed the same.

Nature and extent of interest of debtor entitled in severalty to be described by Judge at hearing of summons and same to be sold by such description.

37. If any person alleged or found to be interested in any lands the subject of a summons for sale shall be resident out of the Colony, service of such summons may be effected in such manner and on such conditions as shall for the time being be in force with respect to the service of a writ of summons. Or the Judge may in his discretion direct the proceedings to continue and make an order for sale without affecting the interest of such absent person.

Service of summons for sale on absent person. Judge may order sale without affecting such interest.

38. On every order for sale the Judge may order the sale of the beneficial interest of the debtor by such proper description as "estate in fee," "for life," or otherwise as shall appear to him to be accurate, and in such lots or a lot so described and subject to such conditions of sale and

Judge may order sale by any proper description or in lots and on terms and conditions,

Saving of Real
Property
Ordinance.

Effect of sale.

title as shall seem fit, and shall give such directions as to advertisements, time and place of sale, the conduct of the sale, conditions, description, reserved biddings and otherwise as may seem fit, and on confirmation of a sale a conveyance in accordance with such directions shall without further order (subject as regards land under the Real Property Ordinance to the provisions of that Ordinance) be executed by the Registrar in such form as may be settled between the party having conduct of the sale and the purchaser, and if they shall disagree by a Judge; and such sale shall, subject as aforesaid, in every case confer valid and effectual title according to the purport of such conveyance against all persons served with the summons for sale and all parties claiming through and under them respectively: Provided that nothing herein contained shall affect the indefeasibility of the title of a registered proprietor under the said Ordinance.

Preferential
sale to others
interested
where interest
of debtor
joint or in
common.

In default of
purchase by
those in-
terested, un-
divided share
of debtor to
be sold by
auction.

39. If it is made to appear that the beneficial interest of the debtor, whether legal or equitable, is not several but is joint or in common with other persons, the Judge may if it appear to be for the general benefit of all persons concerned, with the consent of the persons jointly or in common interested (ascertained if any of them are married women as is provided by law with respect to the acknowledgment of deeds by married women) and with the consent of the guardian of any infant in case the Judge deems the same to be for the benefit of such infant, direct the sale to be made in preference to all or any of the parties interested jointly or in common with the debtor on such conditions as to price and otherwise as shall seem fit. And in default of a satisfactory offer of purchase as in this section provided, the Judge may direct the interest of the debtor to be sold by public auction by such description, with such reserve if any and subject to such conditions of sale as may seem fit.

Preferential
sale to others
interested
where interests
of debtor in
reversion or
remainder, for
life, or contin-
gent,

40. If it is made to appear that the beneficial interest of the debtor, whether legal or equitable, is in reversion or remainder and not in possession, or that it is for life, or for an estate or term terminable on the happening of any event certain or contingent, then it shall be lawful for the Judge in his discretion if it appear to him to be for the interest of all persons concerned, with the consent of all persons interested in priority of time, succession, reversion or remainder,

as the case may be, in the lands sought to be affected, ascertained as in the last section hereinbefore provided, to direct a sale to be made, in preference, to all or any of the parties so interested on such conditions as to price and otherwise as shall seem fit, and in default of a satisfactory offer of purchase as in this section provided the Judge may direct the limited or reversionary interest of the debtor to be sold by public auction by such description and with such reserve, if any, and subject to such conditions of sale as may seem fit. Provided that except with the consent of the judgment creditor, no order for sale as provided in this or the last preceding section shall be made for a less sum than the amount due to him.

In default of such purchase, sale of such interests to be by auction.

41. With the consent of any person or persons interested in such lands for any of the interests described in the last two preceding sections, who are not under any disability other than coverture, and in the case of a married woman with her consent ascertained as is provided by law with respect to the acknowledgment of deeds, and on such terms as to the application of the purchase money and otherwise as may be just or may be agreed upon, the Judge may order that the beneficial interest of any such person or persons attending the summons or represented thereat shall be included in the sale of the interest of the debtor, and may give such person or persons liberty to bid. And if it shall be made to appear that it is for the benefit of any infant beneficially interested that his interest should be sold, the Judge shall have power with the consent of his guardian to direct accordingly.

Interest of infants or others interested may be included in sale of the interest of any debtor in any land taken in execution.

42. It shall be lawful for the Judge on the application of the debtor on the hearing of a summons for sale, to direct that such portion of the land as may be made to appear sufficient to satisfy the execution be sold in the first instance; but this section shall not be construed to deprive a creditor of his right to satisfaction of his debt from any other part of the land seized.

Part of debtor's lands may be ordered to be sold.

43. It shall be lawful for the Judge to direct that any cattle, live or dead stock of the judgment debtor used for the cultivation of any plantation or lands of the debtor shall be sold together with such plantation or lands in one or several lots as shall seem fit, and the Marshal shall not in any such case remove such cattle or stock, and the reasonable costs and charges of keeping such cattle or

Cattle and other stock may be directed to be sold with any plantation.

stock until the same shall be sold shall be allowed to the Marshal, who shall retain the same from the proceeds of such sale.

Purchase
money on sale
by Marshal
payable by
instalments.

44. It shall be lawful for the Judge in his discretion to direct as a condition of sale that the purchase money for any lands sold if exceeding £200 shall as to any portion thereof not exceeding one moiety be payable in such instalments not exceeding four with interest at the rate of 6 per centum per annum at such intervals as shall seem fit, the last payment in no case to be deferred beyond four years from date of sale, and the Judge may at any time direct an assurance to be executed by the purchaser to secure the proper payment of such instalments and may settle the draft or form thereof.

Private sale
may be
sanctioned.

45. It shall be lawful for the Judge in the order for sale to authorize a sale by private contract to any purchaser by consent of the parties to the summons for sale and of such purchaser, and by like consent to direct a conveyance to be executed by the Registrar at such time and for such price and on such conditions if any as such parties may consent to.

Sale may be
stayed and
Receiver
appointed.

46. If it shall not appear desirable that the ascertained beneficial interest of the debtor should be sold, the Judge may at the return of the summons order further execution by sale of land to be stayed till further order, and may award equitable execution by the appointment of a Receiver in respect of the beneficial interest of the execution debtor, or may appoint the creditor or any person nominated by him Receiver thereof without remuneration, or may, on such terms as shall be just, and at the cost of the creditor to be charged by him against the beneficial interest of the execution debtor, appoint a Receiver of the entire rents and profits of the said land or of any part thereof, or may order any person in receipt of such rents or profits to pay into Court the whole or such proportion thereof as shall be directed to the credit of the cause or matter, for such time or to such amount as shall be just.

In absence of
bare trustee
legal estate
may be
vested in new
trustee.

47. The Judge may on the return of the summons, in case it is doubtful in whom the legal estate in the lands is vested, or in case of the absence from the Colony of any bare trustee, make such order vesting the legal estate as is provided by the Conveyancing Ordinance.

48. Any separate estate of a married woman debtor, legal or equitable, as to which she is under no present restraint on anticipation may be made available by any creditor who has obtained judgment against her separate estate by proceedings under this Ordinance in the same way as if she were a *feme sole* seised in her own right.

Estate of married woman in certain cases to be dealt with as if she were a *feme sole*.

49. The equitable beneficial interest of a mortgagor in possession may, on the return of the summons, be dealt with by ordering a sale of the equity of redemption subject to the mortgage or mortgages affecting the property, or by the appointment of a Receiver subject and without prejudice to the rights of the mortgagees, or at the option of the creditor, by ordering the interest of the debtor to be transferred to him, and possession of the property given to him as a puisne incumbrancer for the amount of his debt and costs and no order shall be made on the return of the summons against or affecting the interest of a *bond fide* mortgagee in possession except an order letting in the judgment creditor to redeem in due course as a puisne incumbrancer, on payment of the costs of the mortgagee in possession, nor shall such order be made without the mortgagee has been served with the summons for sale.

Mortgagor's interest may be dealt with subject to incumbrances. Interest of mortgagee in possession not to be affected except by order allowing creditor to redeem.

50. No order made on a summons for sale affecting or charging lands, other than an unconditional order for the sale thereof shall be valid against a subsequent purchaser or incumbrancer until registered. Provided that no judgment or order shall affect land under the Real Property Ordinance until the same shall have been noted on the proper page of the Register Book.

Order for Sale not to be valid against subsequent incumbrancers unless registered.

51. Parties, other than the judgment debtor, attending a summons for sale or any adjournment thereof, may be ordered to enter an appearance thereto; and shall be entitled to such costs of attending and appearance and subsequent proceedings as the Judge shall order, to be paid by the execution creditor and be charged by him against the interest of the execution debtor if any.

Parties and costs of parties, other than debtors attending summons for sale.

52. Forthwith after any sale the auctioneer or other person conducting the sale shall return to the Registrar and the Registrar shall screen and (if the Judge so direct) advertise a report of the result of the sale stating the price obtained and the name and address of the highest bidder. And if the reserve price (if any) fixed by the

Result of auction to be returned by auctioneer to Registrar who shall screen same.

Confirmation
of sale.

Judge has been reached, such report, unless in the meantime objected to by or on behalf of any party to the summons, or by or on behalf of the purchaser or some other bidder at such sale, shall at the expiration of ten days from the date of the same first having been screened be deemed confirmed without any application for the purpose, and the contract of sale may at any time thereafter be enforced on the application of the party having conduct of the sale, or of the highest bidder, as the case may be, by order of the Judge either for the payment of the purchase money, or for the execution of a deed of conveyance, or for a transfer under the Real Property Ordinance as the case may be.

Objection to
confirmation
of report to be
filed in
Registry.

Grounds of
objection.

53. Any objection to the confirmation of the report shall be filed in the Registry within ten days of the screening of the report and may be made by any party to the summons for sale, or by the purchaser, or by any bidder at such sale, and on the following grounds only: irregularity or improper conduct at the sale; improper admission or rejection of bids; non-compliance with the directions of the order for sale; and, if on behalf of a purchaser, fraud or misconduct relating to the sale on the part of the party having the conduct thereof; *bond fide* mistake; or defective title discovered after the sale, or that the property and estate described in the conditions of sale are not capable of being validly conveyed according to such conditions.

Procedure in
case of
objection.

54. Any such ground of objection as in the last preceding section provided shall be taken by affidavit entitled in the action, specifying the ground of objection and stating the facts relied on in support thereof, and which shall be laid before a Judge who may direct the Registrar to summon before him on adjournment of the summons for sale such of the parties to the summons for sale as he may deem necessary to hear on the question raised by the affidavit, and shall dispose of the question raised by such affidavit (having obtained and considered such further evidence on affidavit or otherwise as he shall think fit) either by confirming the sale or by annulling the same and ordering a re-sale, and in either case unconditionally or on such conditions as to specific performance with compensation, entire or partial re-sale, or conditional re-opening of sale, additional restriction, or the removal of restrictions, leave to bid, and otherwise as he may think fit, and may deal with the costs

of such adjourned summons and of all subsequent proceedings as he may think fit. Any party not a party to the summons for sale whom the Judge deems a proper party to be served with the adjourned summons shall be so served and shall if he desires to be heard enter an appearance to such summons.

55. If the reserved bid fixed on the order for sale is not reached at the sale, the Auctioneer or other person conducting the sale shall so inform the highest bidder and shall return a report of the bid to the Registrar, but the same shall not be screened or advertised. Within five days after such sale it shall be competent for the party having conduct of the sale, or for the highest bidder, as the case may be, but for no other party, to apply on adjournment of the summons for sale on a four-day's notice to the other of them, to the Judge for a confirmation of the highest bidder as purchaser, notwithstanding that such reserved bid has not been reached. And the Judge on hearing such summons may refuse such application, or may grant the same by confirming the sale to such bidder, and either unconditionally or subject to such further increase of bid (if any) as may seem fit, or may adjourn the same for such further information, or for the attendance of such other parties as he may think fit.

Procedure when reserved bid not reached.

56. The cost of any such application as in the last section provided shall be borne in the first instance by the applicant, but the Judge may in his discretion, in the event of his confirming a sale, direct the reimbursement of the same out of the purchase money.

Cost of application for new sale where reserved bid not reached.

57. The purchase money in the case of any sale of land shall be paid into Court without any deduction, and the proper costs of the party having conduct of the sale and any costs of any party attending the summons for sale or any adjournment thereof which shall have been allowed whether taxed or settled by the Judge, shall be a first charge thereon.

Purchase money to be paid into Court without deduction, and costs to be a first charge.

58. The Registrar of the Supreme Court shall have power by deed to convey any lands, tenements, or hereditaments which may be sold by him, subject always to the payment of any part of the purchase money thereof remaining unpaid with interest, which shall be a first charge on the estate and interest of the purchaser in the lands, tenements, and

Registrar to convey lands judicially sold.

hereditaments so conveyed and every such conveyance so executed by such Registrar when enregistered shall have the same force and effect as if the same had been executed by the person bound by the decree or against whom the writ shall have issued.

Order of Court
for sale of
interest in land
to be carried
out in same
way as order
under Section
25.

59. Where in any action or other proceeding in the Supreme Court an order is made for the sale of any land the subject of such action or other proceeding, the sale shall proceed in the same manner as if the judgment or order for the sale thereof had been an order for sale within the provisions of Section 25 hereof; and such judgment or order shall, for the purpose of regulating and providing for the time and manner and conditions of such sale, stand referred to a Judge in Chambers, and shall be dealt with by such Judge in the same manner in all respects as if the same had been an order for sale under the provisions of Section 25 hereof made by such Judge, and all the powers herein contained shall be exerciseable by the Judge to whom such judgment or order shall have been so referred.

Order for
possession
against person
wrongly
retaining
possession.

60. If any party to the summons for sale, or any one claiming through or under such party by any act or assurance happening or executed after the day of the service of the summons for sale, or, in the case of a sale ordered in an action or other proceeding under the provisions of the last preceding section hereof, after the date of the judgment or order, retains and refuses to deliver possession of the property sold or any part thereof, the purchaser may issue a summons to the party so retaining possession to show cause why an order to deliver up possession should not be made against such party in favour of such purchaser, and such summons shall be made returnable not less than six days from the date of the issuing thereof, and on the hearing the Judge may upon proof that such purchaser is entitled to immediate possession, order the party served with such summons to deliver up immediate possession of the lands so sold, and may make such order in respect to the costs of such summons as shall be just, and any person failing to obey such order forthwith on being served with the same shall be deemed guilty of Contempt of Court and an order of Possession may be issued directing the Marshal with such assistance as in such writ shall be directed, to enter upon such lands and deliver possession thereof to such purchaser, and any person obstructing or resisting the Marshal or any Assistant of the

Refusal to
obey such
order a
contempt.

Marshal in the execution of such order shall be guilty of Contempt of Court.

61. Every order made by a Judge on a summons for sale or on any adjournment thereof shall be subject to appeal to the Full Court, and such appeal shall be had and determined in manner appointed by law or Rule in force for the time being with respect to appeals from interlocutory orders.

Appeal against order made on summons for sale.

62. It shall be lawful for the Chief Justice with the concurrence of one of the Puisne Judges of the Supreme Court so far as may be necessary from time to time to make rules and regulations not inconsistent with the provisions hereof for the purpose of carrying into effect such provisions, and also tables of fees and charges of the Marshal and scales or lists of costs and charges in respect of summonses for sale and the proceedings consequent thereon; and such rules, regulations, tables, scales and lists shall be laid before the Legislative Council and be subject to approval by such Council in the same manner in all respects as rules, orders and regulations made under and by virtue of the Judicature Ordinance, and shall be read together with and as part of the rules, orders and regulations made under the provisions of such Ordinance.

Rules to carry Ordinance into effect.

No. 34.

63. The Sub-Registrar of the Supreme Court in Tobago shall in the absence of a Judge from Tobago exercise such of the authorities vested in a Judge of the Supreme Court by virtue of this Ordinance as by rules to be made in pursuance of the last preceding section hereof shall be from time to time provided, but in any case such Sub-Registrar may adjourn any summons for the consideration of a Judge so soon as a Judge shall be in Tobago.

Sub-Registrar in Tobago to have authority of a Judge.

Provisions for obtaining Indefeasible Title to Land purchased under this Ordinance.

64. Whenever a Barrister or Conveyancer has reported on the title of the defendant as in Section 33 hereof provided it shall be lawful for the purchaser or any person claiming through or under him to apply at any time after the confirmation of the report of a sale of land under the provisions hereof, and if such confirmation is conditional then on satisfactory proof by affidavit of the due performance of the conditions thereof, under Sections 10 and 11 of the Real Property Ordinance, for such land to be brought

Purchaser may apply to bring land purchased under Real Property Ordinance.

under the provisions of the said Ordinance, and the application shall in such case in addition to the matters required to be therein set out as in Form A of Schedule I to such Ordinance prescribed, cite the order for sale and set out the order or report by virtue whereof it is alleged that the sale has been confirmed and also all mesne assurances, matters and things by which the title to the said land has been transferred, encumbered or otherwise affected subsequently to such confirmation, and such application shall be accompanied by an affidavit that to the knowledge of the applicant no such mesne assurance, matter or thing has been effected or exists other than as in such affidavit set forth; and office copies of the writ in the action in the course of which the order for sale was made, of the order for sale and of the order confirming the sale and of the report of the Barrister or Conveyancer shall in each such case be deposited by the applicant under Section 12 of the said Ordinance.

Proceedings under summons and order for sale not to be questioned by Registrar-General, except as to omission of parties.

65. Every such application shall be subject according to the nature of the interest claimed by the applicant to Sub-sections *a* and *b* of Section 10 of the Real Property Ordinance respectively; but in dealing therewith as in the last section provided the Registrar-General and the Examiner of Titles respectively shall not exercise any of the powers in Section 8 (Sub-sections *a* and *b*) and Section 14 of the said Ordinance contained, except in respect of assurances that have been made or omitted or things that have happened or failed to happen subsequent to the confirmation of the sale, nor shall the Registrar-General enter a caveat under the provisions of Sub-section (*e*) of the said Section 8 in respect of any matter or omission affecting the regularity of the order for sale except the omission to serve any necessary party with the summons for sale or in respect of any proceedings in the Supreme Court upon which the order for sale was founded, or of any proceedings in such Court subsequent to such order and antecedent to the confirmation.

Parties represented on summons not to be deemed omitted.

Provided always that in the event of its being made to appear that the Judge on the order for sale or in the case of a sale under Section 59 hereof a Judge in the action has directed service on one of several parties having the same interest on behalf or for the benefit of all parties so interested or has appointed some person or persons to represent any heirs at law, next of kin or class, no person entitled (whether *sui juris* or not) shall be deemed a necessary party omitted

to be served within the provisions of this section, on the ground that he was not served with the summons for sale or in the action, as the case may be, if any party has been authorized to defend or appear on his behalf or to be served as representing him or his class, and has appeared or been so served accordingly.

66. In applications under this part of this Ordinance the time appointed under Sections 16 and 17 of the Real Property Ordinance for bringing the land under the Real Property Ordinance in the absence of caveat shall be twelve months unless a Judge of the Supreme Court shall on the application of the purchaser or other person applying for good cause order any other time; and any mesne purchaser acquiring title to such land from the applicant during such twelve months or other time may at his discretion proceed with such application in his own name without thereby incurring any fee or charge other than such as the original applicant would have incurred; and such amendments of the application shall in such event be made free of charge as may be necessary at such time and in such manner as the Registrar-General shall in each such case direct.

One year to elapse before land comes under Real Property Ordinance.

67. Section 20 of the Real Property Ordinance shall not be deemed to apply to any application under this part of this Ordinance.

Possessory titles.

68. If any caveat shall be entered as in Section 24 of the Real Property Ordinance prescribed by any person who was a party to the summons for sale or a party to the action in the course of which the order for sale was made, or who was represented as a member of a class on the making of such order or in such action, or by any person claiming through or under any such person, any action or proceeding under Section 26 of the said Ordinance by such caveator, on its being so made to appear, shall be dismissed with costs either on motion by any other party thereto or at the hearing thereof, as the case may be, and the land shall be brought under the said Ordinance without regard to such caveat. But no person other than aforesaid shall in any such action or proceeding as in Section 24 of the Real Property Ordinance prescribed be in any way estopped from impeaching the validity of the order for sale as against parties not served with the summons for sale, and not parties to the action in the

Caveats to be entertained only if lodged by strangers to the order for sale.

Who may impeach order for sale and take exception to parcels in conveyance.

course of which the order for sale has been made, or from raising any question as to the boundaries of the land sold or as to the identification of the parcels thereof or of any part thereof.

Interpre-
tation.

69. In this Ordinance the term :

“ Court ” means the Supreme Court of Trinidad and Tobago ;

“ Judge ” means a Judge of the Court ;

“ Land ” includes all tenements and hereditaments and easements appurtenant and includes undivided shares in land as well as all chattel and equitable interests in land ;

“ Marshal ” includes the Marshal of the Colony and the Deputy Marshals of San Fernando and Tobago ;

“ Prescribed ” means prescribed by this Ordinance or by rules to be framed thereunder ;

“ Seizure ” includes the entry upon and taking in execution of land by the Marshal under process of the Court ;

“ Screen ” means to advertize by means of public notice affixed in a conspicuous part of the Registry of the Court.

[As to when Writ of Execution shall bind property in goods, see section 27 of Ordinance No. 64.]

No. 36.

AN ORDINANCE relating to Writs of Habeas Corpus.

1. This Ordinance may be cited as the Habeas Corpus Short title. Ordinance.

2. The Imperial Statutes mentioned in the Schedule hereto relating to the Writ of Habeas Corpus and every clause, matter and thing therein contained (so far as the same shall or may be applicable to this Colony) shall be in force within this Colony as fully and effectually to all intents and purposes in the law whatsoever as though this Colony had been specially and expressly named and mentioned therein, and as though the said Acts had been passed for the purpose of securing the liberty of His Majesty's subjects within this Colony so far as the same shall not be repugnant to the enactments of any Ordinance in force for the time being within the Colony.

3. All and singular the powers, jurisdiction and authority which, under and by virtue of the said Acts, may be exercised by the Lord Chancellor or Keeper of the Great Seal in England, or by any of the Courts there, or by any of the Judges thereof, for or in respect of the said writ and the granting thereof, and other proceedings thereon, shall and lawfully may in like manner be had and exercised within this Colony by the Supreme Court or any Judge thereof, and every writ so to be issued as aforesaid and bearing the signature of the Judge or Judges by whom the same shall be awarded, shall be of equal force and effect as though the same had been issued under seal, in manner and form as by the said Statutes, or either of them, is provided; and the same shall also be in the form of a citation from the Court or officer awarding the same to the person or persons to whom the same shall be directed, commanding him or them, at a day and place therein to be named, to bring up before such Judge or Court the person by reason of whose alleged illegal imprisonment or detention any such citation shall have been issued.

4. It shall be lawful for the Supreme Court or any Judge thereof if he shall think fit to award a writ or writs of Habeas Corpus for bringing any prisoner detained in any gaol or prison within this Colony before any Court Martial or Court of Justice in the Colony for trial, or to be examined

touching any matter depending before such Court; and the like proceedings shall be had upon such writ or writs of Habeas Corpus so to be awarded as aforesaid as by law may for the time being be had in England upon Writs of Habeas Corpus awarded by the Judges of the High Court of Justice for bringing persons detained in gaol before Magistrates or Courts of Record for such purpose as aforesaid, any law, custom or usage to the contrary thereof in any wise notwithstanding.

5. All and singular the powers, jurisdiction and authority which may be exercised by the Lord Chancellor or Keeper of the Great Seal of England or by any of His Majesty's Courts or by any of the Judges thereof, under and by virtue of the Common Law of England or under or by virtue of any Statute or Act of Parliament, for or in respect of any Writ of Habeas Corpus and the granting thereof and other proceedings thereon shall and lawfully may be had and exercised within this Colony by the Supreme Court or any Judge of such Court in vacation.

SCHEDULE.

An Act for the better securing the liberty of the subject and for prevention of imprisonments beyond the Seas. (31 Charles II., c. 2.)

An Act for more effectually securing the liberty of the subject. (56 George III., c. 100.)

No. 37.

AN ORDINANCE relating to Imprisonment for Debt.

1. This Ordinance may be cited as the Debtors' Ordinance. Short title.

2. In this Ordinance

Interpretation.

The term "Civil Court" means the Supreme Court and any Petty Civil Court.

The term "prescribed" means prescribed by general rules made by the Supreme Court.

3. With the exceptions hereinafter mentioned no person shall be arrested or imprisoned for making default in payment of a sum of money. Abolition of imprisonment for debt, with exceptions.

There shall be exempted from the operation of the above enactment,

1. Default in payment of a penalty or sum in the nature of a penalty other than a penalty in respect of any contract :
2. Default in payment of any sum recovered summarily before a Stipendiary Justice of the Peace not sitting as Judge of any Civil Court or any other Justice or Justices of the Peace :
3. Default by a trustee or person acting in a fiduciary capacity and ordered to pay by a Court of Equity any sum in his possession or under his control :
4. Default by a solicitor in payment of costs when ordered to pay costs for misconduct as such, or in payment of a sum of money when ordered to pay the same in his character of an officer of the Court making the order :
5. Default in payment for the benefit of creditors of any portion of a salary or other income in respect of the payment of which any Court is authorised to make an order :
6. Default in payment of sums in respect of the payment of which orders are in this Ordinance authorised to be made :

Provided, first, that no person shall be imprisoned in any case excepted from the operation of this section for a longer Limitation of imprisonment.

period than one year; and secondly, that nothing in this section shall alter the effect of any judgment or order of any Court for payment of money except as regards the arrest and imprisonment of the person making default in paying such money.

Power of
committal in
certain cases.

4. Subject to the provisions hereinafter mentioned and to the prescribed rules, any Civil Court may commit to the Royal Gaol for a term not exceeding six weeks or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent Civil Court.

Provided (1.) That the jurisdiction by this section given of committing a person to prison shall when exercised by a Deputy acting for the Judge of the Petty Civil Court of Port-of-Spain or by a Stipendiary Justice of the Peace be exercised only subject to the following restrictions, that is to say —

- (a.) Be exercised only by such Deputy or Stipendiary Justice and by an order made in open Court and showing on its face the ground on which it is issued :
- (b.) Be exercised only when such judgment exclusive of costs does not exceed ten pounds.

(2.) That such jurisdiction shall only be exercised where it is proved to the satisfaction of the Court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default and has refused or neglected or refuses or neglects to pay the same.

Proof of
means.

Proof of the means of the person making default may be given in such manner as the Court thinks just; and for the purposes of such proof the debtor and any witnesses may be summoned and examined on oath according to the prescribed rules.

Chambers.

Any jurisdiction by this section given to the Supreme Court may be exercised by a Judge sitting in Chambers or otherwise in the prescribed manner.

Instalments.

For the purposes of this section any Civil Court may direct any debt due from any person in pursuance of any

order or judgment of that or any other competent Civil Court to be paid by instalments and from time to time rescind or vary such order.

No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action or deprive any person of any right to take out execution against the lands, goods or chattels of the person imprisoned in the same manner as if such imprisonment had not taken place. Imprisonment not to extinguish debt.

Any person imprisoned under this section shall be discharged out of custody upon a certificate signed in the prescribed manner to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned together with the prescribed costs (if any). Discharge on payment.

5. Nothing in this Ordinance shall in any way affect any right or power under the Bankruptcy Ordinance to arrest or imprison any person. Bankruptcy Ordinance.

6. All rules made under this Ordinance shall be published in the *Royal Gazette*. Production of a copy of the *Royal Gazette* purporting to contain any rules made under this Ordinance shall be *prima facie* evidence of the making and tenor of such rules. Publication of rules.

No. 38.

AN ORDINANCE relating to the arrest of Absconding Debtors.

- Short title.** 1. This Ordinance may be cited as the Absconding Debtors Ordinance.
- Fugue warrant.** 2. It shall be lawful for a Judge of the Supreme Court by warrant under his hand to authorize the Marshal to arrest and bring before him or some other Judge of the said Court any person alleged to be indebted and to be about to quit the Colony on the conditions and subject to the procedure hereinafter set forth. Save as herein provided no person shall be arrested for debt on mesne process.
- When warrants not to issue.** 3. Such warrant shall not issue against a married woman or an infant, nor in respect of any debt less than £10, nor in respect of any debt that has been due and owing for more than two years previously to the application for such warrant, nor until an action shall have been commenced by the alleged creditor against the debtor for the recovery of such debt by writ specially endorsed as provided by Order III of the Rules of the Supreme Court 1898, or such other rule or order as may for the time being be in force in place of the same.
- Application for warrant.** 4. Such application shall be made only in respect of a debt or liquidated demand for a sum of £10 or upwards, and shall be founded on affidavit made by some person who can swear positively thereto verifying the cause of action and the amount and the date when the same accrued due, and stating that in his belief there is no defence thereto, in the same manner in every respect as the facts are stated in an application for judgment in an action for a debt or liquidated demand in which the defendant has appeared to a writ of summons specially endorsed.
- Intention of defendant to quit Colony.** 5. The intention of the defendant to quit the Colony shall in like manner appear on the same or another affidavit shewing satisfactorily the ground on which the deponent believes and the date on which and place for which the debtor proposes to leave, as far as the same is known to the deponent.
- Return Immigrants.** 6. No such application shall be granted in respect of any immigrant alleged to be about to depart by a ship conveying immigrants on their return passage under the Immigration

Ordinance, unless it is made to appear to the satisfaction of the Judge that such ship is not due to sail for seven full days after the day of the application.

7. If the Judge grants the application for a warrant of arrest the same shall forthwith be signed by the Judge and placed in the hands of the Marshal who shall immediately proceed to arrest the person against whom such warrant is granted.

Warrant to be delivered to Marshal.

8. On the arrest it shall be lawful for the Marshal to receive the sum endorsed on the writ together with the prescribed costs of issuing and executing the same, and in such event he shall forthwith endorse the writ with a statement of such receipt and return the same to the Registry and account for the money so received in the same manner as if the same had been received by him under a writ of execution on a judgment, and shall release the defendant forthwith without any order of a Judge.

When sum and costs paid to Marshal.

9. The Marshal shall at the time of making such arrest serve the defendant with the writ if not already served and give notice to the plaintiff and convey the defendant in custody before a Judge in Chambers if a Judge be then sitting in Chambers, and if not shall detain the defendant and on the next day that a Judge so sits bring him before such Judge, who (the plaintiff being in attendance or having been notified as aforesaid) may order the defendant either to give security for the payment of the alleged debt or to be committed to prison in default of such security, or to be discharged, and may on the application of either party adjourn the matter to such convenient date, for such purposes, and on such terms as to custody, security, the filing of further affidavits or otherwise as he shall think fit. And the Judge may if he shall think fit require the person arrested then and there to enter an appearance to the action in the event of such appearance not having been already entered, and in the event of his refusing so to do may order the Registrar of the Supreme Court then and there to enter such appearance for him as appearing in person and without requiring the delivery of any memorandum of appearance, and the Judge may by consent of the parties proceed to dispose of the action by trial thereof without appeal, or in default of confession or of such consent may direct such action to be set down for trial irrespective of the amount claimed at the first convenient sitting of the Court sitting in its Summary Jurisdiction. There shall be no pleadings

Procedure on arrest.

in any such action unless a Judge shall otherwise order, but the affidavits filed on behalf of the plaintiff and defendant respectively shall be taken to set forth the respective grounds of claim and defence.

Security. **10.** The security may be given by the deposit of money or by bond or otherwise to the satisfaction of the Judge.

Confessing judgment. **11.** On the entry of appearance being made the defendant may forthwith confess judgment and the same shall in such case be entered accordingly for the debt with such costs as the Judge shall award.

Imprisonment in default of security. **12.** After judgment has been given in the action the Judge may on its being proved to his satisfaction that the absence of the debtor will materially prejudice the plaintiff in the recovery of his judgment debt, order the imprisonment of the defendant in default of security for such time as he may deem sufficient to enable the plaintiff to obtain Discovery under the provisions of Part II of Order 42 of the Rules of the Supreme Court 1898, or any rules and orders in force for the time being in place thereof, and in such case the provisions of such rules and orders shall be deemed to apply without any summons for Discovery having been taken out, and, subject however to the provisions of Section 14 hereof, all subsequent proceedings shall in such case be had and taken under the provisions of such rules in the same manner as if the defendant had been arrested on a Discovery summons under the said rules.

In certain cases Judge may discharge defendant and award him damages and costs. **13.** On the defendant appearing before the Judge, the Judge shall if he is satisfied that the defendant is not about to quit the Colony, or that his absence from the Colony will not materially prejudice the plaintiff in respect of the recovery of the debt for which the action has been brought, or if he is not satisfied on hearing the parties and such evidence as may be adduced that the defendant owes the plaintiff a sum of £10 or over, discharge the defendant unconditionally and may in such case, if he shall think fit, award such damages (to include costs) in respect of the arrest and detention, to be paid to the defendant in such time and manner as he shall direct. And such damages shall in such event be leviable by execution on the order of a Judge in the same manner as costs under a judgment in an action.

When defendant without means. **14.** If the defendant proves to the satisfaction of a Judge that he is without means to pay the debt, and is not likely

if detained in the Colony to obtain such means, then, whether judgment has been confessed or not, it shall in any case be lawful for the Judge in his discretion to refuse to commit or detain the defendant on the ground that his absence would not materially prejudice the plaintiff as aforesaid.

15. All committals to prison in pursuance of this Ordinance shall be in default of security only and shall be to the Royal Gaol, and in the event of the debt not having been admitted or confessed may be for such term, not exceeding three months in all in any case, as the Judge may deem sufficient to give time for the trial of the action, and for no longer. And no person once committed to prison under this Ordinance shall be again arrested or committed in respect of the same debt or any part thereof, either on a Discovery summons or under the provisions of this Ordinance. Committals to prison.

16. The Chief Justice with the assent of a Puisne Judge shall have the same powers to make and publish rules, forms, schedules of costs and fees in respect of any procedure under this Ordinance as are conferred in and by the Judicature Ordinance in respect of the practice thereunder. Rules. No. 34.

17. Any person committed under the provisions hereof shall be entitled at any time after such commitment to an order of discharge to be made by a Judge on proof of When defendant entitled to discharge.

1. The payment or settlement of the debt.
2. The consent of the creditor.
3. The giving of security as required.
4. An adjudication of bankruptcy against the defendant; or
5. On satisfying the Judge that he is without means, and that his absence will not materially prejudice the plaintiff.

18. A defendant desirous of applying to a Judge for a discharge on any of the above grounds shall on notifying such desire be brought before such Judge by the Gaoler, and the Judge may refuse such application forthwith, or may direct such notice thereof to be given to the plaintiff as he shall think requisite, or in case he is satisfied by sufficient documentary evidence of the 1st, 2nd, 3rd or 4th grounds in the last Section mentioned, may if he shall think fit order the discharge of the defendant without calling on the plaintiff. Application for discharge.

No. 39.

AN ORDINANCE relating to the recovery of Crown Debts.

- Short title.** 1. This Ordinance may be cited as the Crown Debts Ordinance.
- Capias to issue on information for recovery of Crown debt.** 2. On every information in the Supreme Court against any person for the recovery of any debt due to His Majesty, His Heirs or Successors, a writ in the nature of a Writ of Capias shall issue on the fiat of one of the Judges of the said Court as the first process, and the person against whom such Writ of Capias shall issue shall give sufficient security to the Marshal to appear in the said Court at the day of the return of such Writ to answer such information, and shall likewise at the time of such appearing give sufficient bail or security in the said Court to abide any judgment and satisfy any execution on such judgment.
- Bail.** 3. Such bail or security in the said Court shall be given by putting in and perfecting special bail which shall be in the bond of some sufficient householder or householders in double the sum endorsed on the Writ of Capias, or by depositing in Court the sum endorsed upon the Writ to remain in Court to abide the event of the information or the order of the Court or of any Judge thereof as to the disposal thereof.
- Copy of information to be served on person imprisoned.** 4. If any person against whom a Capias shall issue shall be arrested upon such Capias and taken to prison for want of sufficient bail, a copy of the information exhibited against such person shall be served upon him in gaol or delivered to the Gaoler, Keeper or Turnkey of the prison in which such person shall be confined, and if such person shall neglect or refuse to appear or plead to the said information for the space of twenty days, judgment shall be entered by default.
- Writ of extent to issue on judgment.** 5. On every judgment for the Crown a writ of Extent in the nature of the writ known to the Law of England as a Capias Extendifacias shall issue.
- Where debtor is insolvent.** 6. On any Debt of Record due to the Crown it shall be lawful for any Judge of the said Court on its being made to appear to the satisfaction of such Judge on affidavit, according to the course and practice of the High Court of Justice in

England, that the debtor is in insolvent circumstances and the debt in danger to cause a writ of Extent to issue without any previous proceedings.

7. Where any debtor to the Crown shall die, the Crown shall have the like remedy by Writ of Extent if the debt be a debt of record, or by a Commission *ad inquirendum* if the debt be not of Record, as may be had in the like cases in England according to the course and practice of the High Court of Justice.

Death of debtor.

8. Under every writ of Extent to be sued out under this Ordinance it shall be lawful for the Marshal under such writ to take the body, goods, lands and debts of the person against whom such writ shall issue, and on the return of such writ all debts which may have been extended shall become and be debts to the Crown of Record, for the recovery whereof the Crown shall have the like remedies as for the recovery of debts originally due to the Crown.

Marshal to take body, goods, &c., of person against whom writ of extent shall have issued.

9. It shall be lawful for the Judges of the Supreme Court from time to time to make and establish such Rules and to provide such forms of procedure and writs as to them shall seem fit for carrying out the objects and provisions of this Ordinance.

Rules and forms

No. 40.

AN ORDINANCE relating to the recovery of Costs in Crown Suits.

Short title. 1. This Ordinance may be cited as the Crown Costs Ordinance.

**Interpre-
tation.** 2. In this Ordinance

The term "Crown Property of this Colony" means any land or interest therein and any goods or chattels belonging to the Crown for the use of this Colony ;

The term "obligation" includes any obligation arising from contract, implied contract, or wrong, or in any other way, whether the object thereof be the payment of money or any other performance, and whether the same be enforceable in a court of law or equity or any other court ;

The term "Crown right of this Colony" means a right vested in the Crown to enforce any obligation where the money recovered is payable into the Colonial Treasury, or the performance otherwise enures for the pecuniary or proprietary benefit of the Crown for the use of this Colony ;

The term "person" includes a corporation and any body politic incorporated or unincorporated.

**Costs in Crown
suits.** 3. In all proceedings before any Court relating to any Crown property of this Colony, or for the purpose of enforcing any Crown right of this Colony such Court—

(1.) May award costs to the Crown or person suing on behalf of the Crown ; and

(2.) May declare as to any costs that it is just that the same should be paid by the Crown.

In making any award or declaration under this section the Court shall be guided as far as practicable by the principles which apply in suits between subject and subject.

**Effect of order
for costs.** 4. An order made in any proceeding awarding costs to the Crown or to any person on behalf of the Crown shall have the same effect and confer upon the person to whom the costs are payable the same rights and powers as a like order made in favour of a party to a similar proceeding between subject and subject.

5. Costs recovered by or on behalf of the Crown shall be paid by the person receiving the same into the Colonial Treasury. Application of costs.

6. Every declaration made by a Court as to any costs which it is declared just for the Crown to pay shall specify the person to whom the same are to be paid and shall either state the amount of such costs, or direct the amount to be certified by a Judge or officer of the Court, and the Governor by warrant under his hand may direct the Receiver-General to pay out of the Colonial Treasury to the person specified the amount stated or certified. Payment of costs due from the Crown.

No. 41.

AN ORDINANCE relating to Arbitrations.

- Short title.** 1. This Ordinance may be cited as the Arbitration Ordinance.
- Interpretation.** 2. In this Ordinance the term—
 “Court” means the Supreme Court of the Colony, and
 “Judge” means a Judge of such Court.
 “Submission” means a written agreement to submit present or future differences to arbitration, whether an Arbitrator is named therein or not.
 “Rules of Court” means Rules of the Supreme Court made by the proper authority under the Judicature Ordinance.
- No. 34.** 3. A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of the Court or a Judge, and shall have the same effect in all respects as if it had been made an order of the Court, and unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in the Schedule to this Ordinance, so far as they are applicable to the reference under the submission.
- Stay of proceedings on a submission.** 4. If any party to a submission, or any person claiming through or under him, commences any legal proceedings in the Court against any other party to the submission or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to the Court to stay the proceedings, and the Court or a Judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.
- Court may in certain cases appoint arbitrator,** 5. In any of the following cases :—
 (a.) Where a submission provides that the reference shall be to a single Arbitrator, and all the

parties do not after differences have arisen con- umpire, or
cur in the appointment of an Arbitrator : third
arbitrator.

- (b.) If an appointed Arbitrator refuses to act, or is incapable of acting, or dies, or is absent from the Colony and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy :
- (c.) Where the parties or two Arbitrators are at liberty to appoint an Umpire or third Arbitrator and do not appoint him :
- (d.) Where an appointed Umpire or a third Arbitrator refuses to act, or is incapable of acting, or dies or is absent from the Colony and the submission does not show that it was intended that the vacancy should not be supplied and the parties or Arbitrators do not supply the vacancy :

any party may serve the other parties or the Arbitrators as the case may be with a written notice to appoint an Arbitrator, Umpire, or third Arbitrator.

If the appointment is not made within seven clear days after the service of the notice, the Court or a Judge may, on application by the party who gave the notice, appoint an Arbitrator, Umpire or third Arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

6. Where a submission provides that the reference shall be to two Arbitrators, one to be appointed by each party, then unless the submission expresses a contrary intention:— Parties may in certain cases supply vacancy.

- (a.) If either of the appointed Arbitrators refuses to act or is incapable of acting or dies or is absent from the Colony the party who appointed him may appoint a new Arbitrator in his place :
- (b.) If on such a reference one party fails to appoint an Arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his Arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an Arbitrator may appoint that Arbitrator to act as sole Arbitrator in the reference

and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court or a Judge may set aside any appointment made in pursuance of this section.

Powers of arbitrator or umpire.

7. The Arbitrators or Umpire acting under a submission shall, unless the submission expresses a contrary intention, have power:—

- (a.) To administer oaths to or take the affirmations of the parties and witnesses appearing; and
- (b.) To state an award as to the whole or part thereof in the form of a special case for the opinion of the Court; and
- (c.) To correct in an award any clerical mistake or error arising from any accidental slip or omission.

Witnesses may be summoned by subpoena.

8. Any party to a submission may sue out a writ of subpoena *ad testificandum*, or a writ of subpoena *duces tecum*, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

Enlarging time for making award.

9. The time for making an award may from time to time be enlarged by order of the Court or a Judge whether the time for making the award has expired or not.

Power to remit award.

10.—(1.) In all cases of reference to arbitration the Court or a Judge may from time to time remit the matters referred, or any of them, to the re-consideration of the Arbitrators or Umpire.

(2.) Where an award is remitted the Arbitrators or Umpire shall, unless the order otherwise directs, make their award within three months after the date of the order.

Setting aside award or removing arbitrator or umpire.

11.—(1.) Where an Arbitrator or Umpire has misconducted himself, the Court may remove him.

(2.) Where an Arbitrator or Umpire has misconducted himself, or an arbitration or award has been improperly procured the Court may set the award aside.

Enforcement of award.

12. An award on a submission may, by leave of the Court or a Judge, be enforced in the same manner as a judgment or order to the same effect.

Reference in actions.

13.—(1.) Subject to Rules of Court and to any right to have particular cases tried by a jury, the Court or a Judge

may refer any question arising in any cause or matter (other than a criminal proceeding by the Crown) for inquiry or report to any referee who may consent to act on such terms as to remuneration and otherwise as to the Court or a Judge shall seem fit.

(2.) The report of a referee may be adopted wholly or partially by the Court or a Judge and if so adopted may be enforced as a judgment or order to the same effect.

14. In any cause or matter (other than a criminal proceeding by the Crown)— Power to refer in certain cases.

- (a.) If all the parties interested who are not under disability consent: or
- (b.) If the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the Court or a Judge conveniently be made before a jury or conducted by the Court through its other ordinary officers: or,
- (c.) If the question in dispute consists wholly or in part of matters of account;

the Court or a Judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a Referee or Arbitrator agreed on by the parties, or in default of agreement before a Referee to be named in the order of reference.

15.—(a.) In all cases of reference to a Referee or Arbitrator under an order of the Court or a Judge in any cause or matter, the Referee or Arbitrator shall be deemed to be an officer of the Court, and shall have such authority and shall conduct the reference in such manner as may be prescribed by Rules of Court and subject thereto as the Court or a Judge may direct. Powers and remuneration of referees and arbitrators.

(b.) The report or award of any Referee or Arbitrator on any such reference shall unless set aside by the Court or a Judge, be equivalent to the verdict of a jury.

(c.) The remuneration to be paid to any Referee or Arbitrator to whom any matter is referred under order of the Court or a Judge shall be determined by the Court or a Judge.

16. The Court or a Judge shall, as to references under order of the Court or a Judge, have all the powers which are Powers of Court in references.

by this Ordinance conferred on the Court or a Judge as to references by consent out of Court.

Appeals.

17. The full Court shall in cases before the full Court by way of appeal have all the powers conferred by this Ordinance on the Court or a Judge thereof under the provisions relating to references under order of the Court.

Habeas Corpus.

18. The Court or a Judge may order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for examination before a Referee, Arbitrator or Umpire.

Statement of case pending arbitration.

19. Any Referee, Arbitrator or Umpire may at any stage of the proceedings under a reference, and shall if so directed by the Court or a Judge, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

Costs.

20. Any order made under this Ordinance may be made on such terms as to costs or otherwise, as the authority making the order thinks just.

Perjury.

21. Any person who wilfully and corruptly gives false evidence before any Referee, Arbitrator or Umpire shall be guilty of perjury, as if the evidence had been given in open Court, and may be dealt with, prosecuted and punished accordingly.

Actions by or against the Crown.

22. This Ordinance shall, except as herein expressly mentioned apply to any arbitration to which His Majesty the King in right of the Crown or any Officer of the Government in respect of any act or omission by him or by his Department is a party, but nothing in this Ordinance shall empower the Court or a Judge to order any proceedings to which His Majesty is a party, or any question or issue in any such proceedings, to be tried before any Referee, Arbitrator or officer without the consent in writing of the Governor.

Application of Ordinance.

23. This Ordinance shall apply to every arbitration under any Ordinance authorizing arbitration in any special class of cases as if the arbitration were pursuant to a submission, except in so far as this Ordinance is inconsistent with the Ordinance regulating the arbitration or with any rules or procedure authorized or recognized by that Ordinance.

SCHEDULE.

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

a. If no other mode of reference is provided, the reference shall be to a single Arbitrator.

b. If the reference is to two Arbitrators, the two Arbitrators may appoint an Umpire at any time within the period during which they have power to make an award.

c. The Arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the Arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

d. If the Arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the Umpire a notice in writing, stating that they cannot agree, the Umpire may forthwith enter on the reference in lieu of the Arbitrators.

e. The Umpire shall make his award within one month after the original or extended time appointed for making the award of the Arbitrators has expired, or on or before any later day to which the Umpire by any writing signed by him may from time to time enlarge the time for making his award.

f. The parties to the reference and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the Arbitrators or Umpire on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the Arbitrators or Umpire, all books, deeds, papers, accounts, writings, and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the Arbitrators or Umpire may require.

g. The witnesses on the reference shall, if the Arbitrators or Umpire thinks fit, be examined on oath or affirmation.

h. The award to be made by the Arbitrators or Umpire shall be final and binding on the parties and the persons claiming under them respectively.

i. The costs of the reference and award shall be in the discretion of the Arbitrators or Umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof.

No. 42.

AN ORDINANCE to authorize the acquisition of land for public purposes.

Short title. 1. This Ordinance may be cited as the Land Acquisition Ordinance.

**Interpre-
tation.** 2. In this Ordinance the term—

“Person interested” includes every person claiming an interest in compensation to be made on account of the acquisition of land under this Ordinance, but does not include a tenant by the month.

“Land” includes easement and incorporeal hereditament, and includes chattel interests in land.

“Promoters” means any corporation, company or persons desirous of acquiring land under the provisions of Sections 61–64 hereof inclusive.

Where under this Ordinance any notice shall be required to be given to the owner of any land, or where any act shall be authorized or required to be done with the consent of any such owner, the term “owner” shall mean any person who under the provisions of this Ordinance would be enabled to sell and convey lands taken under this Ordinance.

Wherever the Director of Public Works is named herein the term shall be taken to include for the purposes of this Ordinance any other public officer in charge of any particular work and any surveyor, officer, workman or other person authorized by such Director or other officer.

**Power to enter
land, etc.** 3. Whenever the Legislative Council has appropriated any moneys towards any public works or purposes, it shall be lawful for the Director of Public Works to do all or any of the following things, that is to say:—

- (a.) To enter upon and survey and take levels of any land in any locality within which such public works are intended to be executed.
- (b.) To dig or bore into the sub-soil of such land.
- (c.) To do all other acts necessary to ascertain whether the land is adapted to such purpose.
- (d.) To set out the boundaries of the land proposed to be taken and the intended line of the work, if any, proposed to be made thereon.

- (e.) To mark such levels, boundaries and lines by placing marks and cutting trenches.
- (f.) Where otherwise the survey cannot be completed, the levels taken or the boundaries or line of the work marked, to cut down and clear away any standing crop, fence, tree or bush.
- (g.) To set up and maintain gauges in any stream or watercourse and have access to the same from time to time for purposes of observation.
- (h.) To do all such other acts as may be incidental to or necessary for any of the purposes aforesaid.

Provided that the Director of Public Works shall not enter into any building or into or upon any enclosed yard, court or garden attached to a dwelling house unless with the consent of the occupier thereof, without previously giving such occupier at least seven days notice in writing of his intention to do so.

4.—(1.) When the Director of Public Works shall have entered on any land under the powers in the last section contained with the intention of appropriating and taking the same or any part thereof for the purposes of any public works he shall cause such lands to be marked out and a notice to be posted in some conspicuous part of such lands, and such notice shall state in respect of what public work such land has been entered and that claims for compensation for all interests therein may be made to the Director of Public Works and such notice shall be signed by the Director of Public Works or person authorized as aforesaid, and the marking out of such lands and the putting up of such notice shall be conclusive evidence of the said lands having been entered with the intention of appropriating the same for a public work.

Director of
Public Works
to post notice.

(2.) Such notice shall also state the particulars of the land and of the part thereof intended to be taken (so far as may be) and shall require the owner and all persons interested therein to appear personally or by attorney or agent before the Director of Public Works or a person authorized by him in that behalf at a place and time in such notice mentioned (such time not being earlier than thirty days from the date of the publication of the notice) to state the nature of their respective interests in the lands and the amounts and particulars of their claims to compensation for such interests.

(3.) The Director of Public Works shall also serve notice to the same effect on the occupier of any such land and on all mortgagees and on all such other persons as are known to him to be interested therein or to be entitled to act for the persons so interested.

Provided that if such mortgagee or person so interested shall be absent from the Colony and has no attorney or agent within the Colony and his address be known, notice may be sent to him by post.

Any person removing any marks or defacing any notice placed or posted in accordance with the provisions of this Ordinance shall be guilty of an offence against this Ordinance and on summary conviction shall forfeit and pay any sum not exceeding twenty pounds, and in default of payment thereof shall be imprisoned either with or without hard labour for any term not exceeding six months.

Director of
Public Works
may acquire
land.

5. It shall be lawful for the Director of Public Works on behalf of the Crown to acquire the land necessary for such public works or purposes either by private agreement for purchase or exchange, or by arbitration, or by compulsory purchase in manner hereinafter provided, and either without entering into provisional occupation of the same as in the third Section hereof provided, or at any time after such entry; and he may proceed with the construction of the permanent works to be constructed or erected without waiting for the definite vesting of such land under Section 6 hereof; or at his discretion he may at any time before such definite vesting abandon the acquisition of any such land notwithstanding that the same may have been so entered upon as in the third Section mentioned, or that the construction of works thereon may have been proceeded with, unless the land has in the meantime been acquired by private agreement or arbitration or the compulsory purchase thereof has been completed by an award for compensation under this Ordinance.

Abandonment
of acquisition.

Notice of
appropriation
in *Gazette* to
vest land in
Crown.

6. On the acquisition of land under this Ordinance for public purposes being decided on it shall be lawful for the Governor by notice in the *Royal Gazette* to declare the same to have been appropriated for the public purpose mentioned in such notice, and thereupon the soil of such land shall become vested in His Majesty the King, and shall if the acquisition thereof be thereafter abandoned under any

provision hereof thenceforth revert in the owner or person interested for his prior estate, on similar notice of such abandonment being published in like manner.

7. If the Governor has not caused notification of the appropriation or abandonment of any lands entered on to be made in manner by the last section hereof provided, it shall be lawful for the owner thereof at any time after the expiration of 42 days from the first entry on such land under Section 3, by notice in writing to the Colonial Secretary, to claim that such land be either appropriated or abandoned, and if the Governor shall not within one month from such notice abandon the same it shall be deemed to have been definitely appropriated without the power of subsequent abandonment, and compensation in respect thereof shall become due and be assessed as herein provided.

Owner may claim appropriation or abandonment.

8.—(1.) The Director of Public Works may before or after entry under Section 3 hereof require the occupier and any other person known or believed to be interested in any land entered or intended to be entered to deliver to him within a time to be specified being not less than twenty-one days a statement in writing containing so far as may be within his own knowledge, the name of every other person possessing any interest in the land or any part thereof as co-partner, mortgagee, lessee, sub-lessee, tenant or otherwise and of the nature of such interest.

Director of Public Works may require information as to land entered.

(2.) Every person required to make and deliver a statement under this Ordinance who shall wilfully make any false statement or refuse to make a statement shall be guilty of an offence and on summary conviction thereof may be fined any sum not exceeding £20 or in default of payment may be imprisoned with or without hard labour for any term not exceeding six months.

9. It shall be lawful for all parties being seised or possessed of or entitled to any lands that may be required for any public work or any estate or interests therein to sell and convey or release the same to the Governor; and particularly it shall be lawful for all or any of the following parties so to sell, convey or release (that is to say) all corporations, tenants in tail or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics or idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators

Parties under disability may sell and convey.

and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years and for years or any less interest ; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for any less interest not only on behalf of themselves and their respective heirs, executors, administrators and successors, but also for and on behalf of every person entitled in reversion, remainder or expectancy after them or in defeasance of the estates of such parties ; and as to such married women whether they be of full age or not, as if they were sole and of full age ; and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Ordinance if they had respectively been under no disability ; and as to such trustees, executors and administrators, on behalf of their *cestuis que trust* whether infants, issue unborn, lunatics, *femes covert* or other persons, and that to the same extent as such *cestuis que trust* respectively could have exercised the same power under the authority of this Ordinance if they had respectively been under no disability.

Provided that all moneys paid under this section shall be paid into Court to the credit of whomsoever may be entitled thereto.

Other powers
of parties
under
disability.

10. The power to release lands from any rent charge or incumbrance and to agree for the apportionment of any such rent charge or incumbrance may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands.

Owner may
claim compensation for
entry on lands
abandoned.

11. If in respect of such notice in writing as in Section 7 hereof mentioned the Governor, or if the Director of Public Works after entry under Section 3 hereof, abandons such land, then and in either such case compensation shall be made to such owner in respect of any actual damage or injury resulting to him by reason of any act committed thereon under the powers in Section 3 contained, and the amount of such compensation in case of difference and in

default of arbitration shall be assessed by the Judge of a Petty Civil Court in a summary manner, and shall (with such costs as may be awarded) be paid to such owner by the Receiver-General on the warrant of the Governor. But nothing shall in such case be awarded by way of compensation for loss of bargain or damages for breach of contract, nor in respect of any matter which under the provisions of Section 41 hereof shall not be legally the subject of compensation, nor in such case shall any additional compensation be awardable in respect of compulsory purchase.

12. The owner of any lands appropriated who shall refuse to accept such sum of money as may be offered for the purchase thereof may claim to have the amount of compensation referred to arbitration, and in the absence of any consent so to refer the same or as to the arbitrators to be appointed or otherwise as to the terms of submission to arbitration then the compensation for such land shall subject as in Sections 21, 22 and 24 hereof provided be assessed by the Judge of a Petty Civil Court, if the compensation claimed shall not exceed Fifty Pounds; and in all other cases shall be assessed by the Court for assessment of compensation hereby constituted.

When owner
refuses com-
pensation
offered.

13. The purchase-money or compensation to be paid for any lands to be purchased or taken by the Director of Public Works or person authorized as aforesaid from any party who by reason of absence from this Colony is prevented from treating or who cannot after diligent inquiry be found or who shall not appear at the time appointed for the inquiry after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by a Judge of the Supreme Court, after valuation by one or more of the assessors appointed under Section 31 hereof as he shall nominate for that purpose as hereinafter mentioned.

Compensation
to absent
parties, etc.,
to be fixed by
Judge.

14. Upon application by the Director of Public Works to a Judge of the Supreme Court and upon such proof as shall be satisfactory to him that any such party is by reason of absence from this Colony prevented from treating or cannot after diligent inquiry be found or that any such party failed to appear on such inquiry after due notice to him for that purpose, such Judge shall by writing under his hand nominate one or more of the assessors appointed

Judge to
nominate
assessors.

under Section 31 hereof to make such valuation as aforesaid and the assessors so nominated shall thereupon proceed accordingly and shall annex to their valuation a declaration in writing subscribed by them of the correctness thereof.

Safe custody
and production
of valuation,
etc.

15. The valuation to be made by such assessor or assessors shall be delivered to the Director of Public Works and shall be by him preserved, and he shall at all times produce the said valuation and other documents on demand to the owner of the lands comprised in such valuation.

Expenses how
to be borne.

16. All compensation under this Ordinance and all the expenses of and incidental to every valuation as in Sections 14 and 15 provided, and all expenses of acquisition, save as in pursuance of Section 45 hereof expressly otherwise ordered, shall be at the charge of the Colony and be paid by the Receiver-General on the warrant of the Governor, save and except as in Section 63 hereof provided in the cases therein mentioned.

Disposal of
compensation
money in case
of absent
owners.

17. The compensation awarded by the Judge under Section 13 hereof shall be paid into the Colonial Treasury to the credit of the person or persons to whom such compensation shall have been awarded if such person or persons cannot be found or is or are absent from the Colony, and upon the application by petition to a Judge the moneys so deposited shall be paid to the persons entitled thereto in such proportions and according to such respective rights and interests and in such manner as the Supreme Court may direct and order.

Dispute as to
amount of
compensation
to absent
owners.

18. If the owner or person interested shall be dissatisfied with such valuation it shall be lawful for him at any time within twelve months after such payment as in the last Section mentioned and before he shall have applied to the Supreme Court for payment of the moneys so deposited, by notice in writing to the Director of Public Works to require the question of such compensation or purchase money to be submitted for assessment and thereupon the same shall be submitted accordingly in the same manner as in other cases of disputed compensation under this Ordinance.

Person in
possession to
be deemed
owner.

19. Where any question shall arise touching the title of any person to any lands which may be taken or entered upon for the purposes of this Ordinance, or touching any estate or interest therein, the person having the ostensible

possession or enjoyment of the rents and profits of such land shall be deemed the owner of the same, for the purpose of determining the amount of compensation payable in respect of any such lands.

20. Subject as is provided in and by the provisions of Sub-sections 6, 7 and 8 of Section 41 hereof the owner of any land which without any portion thereof having been actually acquired has been injured by the erection or construction upon lands acquired under this Ordinance of any public work shall be entitled to compensation in respect of any easement or right appurtenant to such land destroyed or interfered with or of any injury caused to such land by such erection or construction.

Compensation to adjacent proprietors.

21. In cases where it does not appear that the compensation claimed exceeds fifty pounds, a Judge of a Petty Civil Court upon the application of either party may summon the other party to appear before him at a time and place to be named in the summons and upon the appearance of such parties, or in the absence of any of them, upon proof of the due service of the summons, it shall be lawful for him to hear and determine the question and amount of the compensation and for that purpose to examine such parties or any of them and their witnesses upon oath, and the costs of every such enquiry shall be in his discretion, and he shall settle the amount thereof.

Claims under £50 to be settled by Petty Civil Court, &c.

22. Provided that in any case in which the compensation claimed exceeds fifty pounds it shall be competent to the Director of Public Works to apply to a Judge of the Supreme Court in Chambers on summons to be duly served on the claimant supported by the affidavit of an assessor appointed under Section 31 hereof that the market value of the land to be taken does not exceed fifty pounds for an order referring the question of compensation to a Judge of a Petty Civil Court and if such Judge of the Supreme Court is satisfied on evidence that the compensation will probably not exceed fifty pounds then the assessment of compensation shall be referred to such Judge of a Petty Civil Court but in such case the Judge of the Petty Civil Court shall be at liberty to award a greater sum than fifty pounds if it shall so seem fit.

Claim exceeding £50 may on affidavit of assessor be referred to Petty Civil Court, &c.

23. Nothing in this Ordinance contained shall be construed or deemed or taken to prevent or preclude

Arbitration.

No. 41. the persons interested from submitting the difference between them as to compensation to the decision of an Arbitrator or Arbitrators in manner provided by the Arbitration Ordinance.

Summons and order for assessment.

24. In cases where the compensation claimed exceeds fifty pounds it shall subject as in Section 22 hereof provided and in default of arbitration under Section 23 hereof, be lawful for a Judge of the Supreme Court on summons by the owner entitled in the matter of the Land Acquisition Ordinance and of the compulsory purchase of such land (satisfactory proof of notice having first been given by such owner stating the sum which he is willing to accept as such compensation), to order that the value of such lands be assessed by a Judge of the Supreme Court with or without the assistance of assessors according to the provisions hereof, and such summons shall be returnable within seven days and shall be served on the Crown Solicitor and on all persons other than the applicant resident in the Colony and the attorney or agent of persons not resident in the Colony whose names shall have been mentioned by any such owner as being interested in such land. The summons and order in this section mentioned are hereinafter referred to as "summons for assessment" and "order for assessment" respectively.

Proceedings on summons for assessment.

25. On the return of the summons for assessment the Judge shall satisfy himself as far as may be as to persons other than applicants interested in such land and may adjourn the further hearing of the summons to allow of their being served, and shall, subject to such adjournment if any, appoint a day for the assessment thereof by a Judge with or without assessors to be named as herein provided, and may direct the service on any person other than the applicant alleged to be interested in such land of a notice requiring him or them to state on or before a day to be therein named the nature of his alleged interest if any and the sum which he claims as compensation in respect thereof.

Assessors to be nominated.

26. On the return of the summons for assessment the Judge shall also direct the Crown Solicitor and the persons alleged to be interested or such of them as he shall think fit, to appoint on or before a day to be mentioned in the order for assessment two qualified assessors from the list hereinafter mentioned, one to be nominated by the Crown

Solicitor and the other by the persons interested, for the purpose of aiding the Judge in determining the amount of compensation in manner herein directed: Provided always that assessors shall not be appointed unless the Judge otherwise directs, in cases where the Judge is of opinion on satisfactory evidence that the amount of compensation will not exceed one hundred pounds, but in every such case the amount of such compensation, unless otherwise expressly directed by the Judge, shall be determined by a Judge alone without assessors. Provided also that if the claimant in any such case elect that the amount of compensation shall be determined and assessed by a Judge alone without assessors it shall be lawful for the Judge at his discretion irrespective of the amount claimed to make his order for assessment by a Judge alone.

27. A similar order for assessment may be made on summons issued by the Crown Solicitor and served upon the person or persons alleged to be interested in such land on proof that notice has been served on such person or persons as in Sub-section (3) of Section 4 hereof provided, or in default of such persons on proof that there has been affixed on some conspicuous place on or near the land proposed to be acquired the notice in the said section prescribed. But nothing herein contained shall be deemed to invalidate or render inapplicable or incomplete any procedure that may be taken under Sections 13-17 inclusive of this Ordinance.

Order for
assessment on
application of
Crown
Solicitor.

28. The order for assessment shall in case no person appears to such summons on behalf of the persons interested or in case it shall appear to the Judge that no person so appearing is interested, name two assessors to attend the assessment on behalf of any person who may be interested in such land.

Assessors for
unascertained
owners.

29. The order for assessment shall name the assessors (if any) selected by the respective parties, and in case the parties interested in such land if more than one fail to agree upon the assessors to represent them the Judge in the order for assessment shall appoint assessors on their behalf from among those named by such parties.

Assessors for
claimants
disagreeing.

30. For the purpose of hearing and disposing of the summons for assessment and making the order for assessment the Judge in Chambers, and for the purpose of the

Jurisdiction of
Judges as to
application.

assessment and for all purposes of dealing with applications which may lawfully be made between the order for assessment and the assessment, the Judge named to preside over the assessment shall exercise all such powers as by the rules of the Supreme Court for the time being in force may be lawfully exercised by a Judge in Chambers or by a Judge at the trial respectively in respect of any action or other proceeding at law, applicable to the trial of an action for damages.

List of
assessors to be
appointed by
Governor.

31. The Governor shall appoint assessors not less than 20 in number, being persons willing to serve when required, and skilled in the valuation of property of the several descriptions of real property common in the Colony, and a list of such assessors shall be published in the *Royal Gazette* and kept in the Registry of the Supreme Court, and the Governor may from time to time add to such list and may substitute other names for those of persons dying, departing from the Colony, or desiring to discontinue serving; and each assessor whose name is on such list shall be compellable by writ of subpoena to serve on any such assessment unless he shall satisfy the Judge that he is for good cause unable to serve or ought for good cause to be excused from service, and in case of neglect or default to attend as required after having been duly summoned may be fined in such sum not exceeding twenty pounds as may be required by a Judge.

In case of any such assessor being excused from serving or not attending any particular case, a Judge may at any time before trial on the application of the party on whose behalf such assessor has been appointed proceed to appoint another assessor in his stead.

Declaration by
assessors.

32. No assessor shall proceed to act in the matter of any valuation or assessment unless he shall have first made and signed before a Judge in an assessors' declaration book to be kept by the Registrar of the Supreme Court the declaration following:—

“I (A.B.) do solemnly and sincerely declare that in all matters and cases submitted to me or with which I may have to deal under the provisions of the Land Acquisition Ordinance, I will faithfully, honestly and impartially execute my duties to the best of my judgment, skill and ability.”

33. So far as possible the Judge named in the order of assessment shall from the date of such order be deemed the Judge having seisin of the case, and the assessment and all proceedings between the order of assessment and the assessment shall be had and taken before such Judge; but nothing herein contained shall be deemed to invalidate any assessment or any order made in the matter of such assessment by any Judge of the Supreme Court.

Judge appointed to assess to have seisin of case from time of appointment.

34. The Judge and assessors (if any) shall on a day to be named in the order for assessment or in some subsequent order of a Judge proceed to assess the compensation to be awarded to the plaintiff in the prescribed manner. And such trial shall be had in such place and at such time and adjourned to such place and time as the Judge shall direct, and the trial shall be public. And the Registrar of the Supreme Court by himself or one of his clerks shall attend the Court in the same manner and perform the same duties with respect to such assessment as he would perform with respect to the trial of any action, and the procedure in the trial of a civil action shall be followed as far as the same shall be applicable, and the parties shall be entitled to the same right of retaining and being heard by counsel and solicitor as in an action at law.

On such enquiry the owner of the land shall be deemed the plaintiff, and the Director of Public Works shall be deemed the defendant, and the proceedings shall be deemed to be proceedings in the Supreme Court.

Either party shall have power to subpoena any person as a witness, and to enforce the attendance of such witness, and any witness failing to attend without sufficient cause, or who shall appear but refuse to be examined, or to give evidence touching the subject matter in question, shall be proceeded against in the same manner as any other person failing to attend or refusing to be examined or to give evidence as a witness before a Judge of the Supreme Court.

Witnesses.

35. It shall be competent for the Chief Justice with the assent of the Puisne Judges or one of them to make such rules, forms, schedules of fees and scales of costs consistent with the provisions hereof as may from time to time appear necessary for regulating the procedure of the Supreme Court in respect of the summonses for assessment and

Rules.

No. 34.

assessments before such Supreme Court or any Judge thereof hereby directed, and from time to time in like manner to add to or amend such rules, and such rules, forms, schedules and scales shall be laid before the Legislative Council when made in the same manner as rules and orders under the Judicature Ordinance. And so far as by this Ordinance or by such rules is not otherwise provided the enquiry and the judgment thereon and all proceedings, matters and things incident or ancillary thereto shall be had and taken in all respects in the same manner as in respect of the trial and judgment in an action for damages in the ordinary jurisdiction of such Court.

Opinions of assessors to be recorded.

36. Subject as in Section 46 provided the opinion of such assessors as to the value of each alleged item of compensation shall be given orally and shall be recorded in writing by the Judge.

Questions of law.

37. On all questions arising at the trial as to title or law or practice or usage having the force of law the opinion of the Judge shall prevail and there shall be no appeal therefrom save as hereinafter provided.

Judge to be umpire as to questions of amount as between assessors.

38. In case the Judge or one or both of the assessors agree as to the amount of compensation or as to the amount of any item, or in case the Judge as to any such amount awards any sum greater than the lower and less than the greater of the amounts found by the assessors respectively, then the decision of the Judge shall be final.

Appeal from judgment in certain cases.

39. In case the Judge as to the total amount of compensation or as to the amount of any item finds for a less sum than the smaller or a greater sum than the greater of the amounts found by the assessors respectively, then the decision of the Judge shall, subject to appeal as hereinafter provided, be entered as the judgment of the Court.

Assessors' fees.

40. Every assessor shall receive such fee for his services as the Judge shall direct, provided that such fees shall not exceed five pounds for any day or three pounds for any day after the first. Such fee shall be paid in the first instance by the Director of Public Works out of moneys to be provided by the Receiver-General and shall be deemed to be costs in the proceedings.

Items of

41. In determining claims for compensation for lands

acquired under this Ordinance, the assessors or Judge may take into consideration assessment to be taken into consideration.

1. The market value of the land at the time of awarding compensation;
2. Any damage sustained by the person interested at the time of awarding compensation by reason of severance;
3. The damage (if any) sustained by the person interested at the time of awarding compensation, by reason of the acquisition injuriously affecting his other property or his earnings;
4. If in consequence of the acquisition he is compelled to change his residence, the reasonable expenses (if any) incidental to such change;

but shall not take into consideration the following :—

5. The degree of urgency or necessity which has led to the acquisition;
6. Any *pretium dilectionis* or disinclination of the person interested to part with the land acquired;
7. Any damage sustained by the person interested, which if caused by a private person, would not render such person liable to an action;
8. Any damage not being in the nature of deprivation of or interference with an easement or legal right which after the time of awarding compensation is likely to be caused by or in consequence of the use to which the land acquired will be put;
9. Any increase to the value of the land acquired likely to accrue from the use to which the land acquired will be put;
10. Any outlay or improvements on such land which shall appear to have been made, commenced or effected with the intention of enhancing the compensation to be awarded therefor in the event or with the view of such land being required for the public purpose for which the same has been acquired.

42. In determining claims for compensation the Court or Judge shall have power to consider and award to the claimant in respect of compensation for compulsory purchase, in addition to the matters herein specified such sum not Additional 10 per cent.

exceeding 10 per cent of the market value of the land at the time of awarding compensation as to the Court or Judge shall seem fit.

Severance.

As to severance, the Court shall have power to assess compensation on the footing that any specified works, crossings or access agreed to on behalf of the Director of Public Works shall be erected, provided and allowed, and any such agreement shall be reduced into writing and be signed by the Judge and shall be valid and effectual and binding on the Director of Public Works and on the Plaintiff and his successors in title.

Award to be in writing and Gasetted.

43. Every award made under this Ordinance shall be in writing signed by the Judge and the assessors or assessor (if any) concurring therein, shall be published in the *Royal Gazette*, and shall specify the amount awarded under the several heads of claim, as hereinbefore provided.

Costs.

44. There shall also be signed by the Judge and filed with the proceedings an *allocatur* either after or without taxation, specifying the amount of costs incurred in the proceedings under this Ordinance and by what persons and in what proportions they are to be paid.

Claimants' costs.

45. The amount of costs and all questions relating thereto shall be determined by the Judge alone, but the claimant shall be held entitled to his costs of all proceedings reasonably and properly taken, unless it shall appear that his conduct has been unreasonable and vexatious or his claims grossly excessive, or that he has been party to some deceit or fraud in respect of his claim.

Appeals.

46. In the event provided for by Section 39 hereof the Judge shall make and sign his judgment alone, giving the reasons for his decision, and each of the assessors shall in writing forward and give reasons for his conclusion. Either party may appeal therefrom to the Court of Appeal.

Every appeal under this section shall be filed within thirty days of the publication of the judgment.

Special case may be stated.

47. There shall be no appeal from an assessment except as in and by the last section provided. But it shall be lawful for a Judge either of the Supreme Court or of any Petty Civil Court in any case, whether sitting with assessors or not, and whether on the application of either party to the assessment or not, to state for the opinion of the full

Court any question of law or of principle of assessment or any question of title as to which the Judge is of opinion that the judgment of the Supreme Court should be obtained for the opinion of the full Court to be heard and determined as provided by the rules of the Supreme Court in respect of the determination of any question of law or statement of a special case in any action.

48. On the production of a copy of a judgment of the Supreme Court, certified by the Registrar, or on the production of a copy of a judgment, certified by a Judge of a Petty Civil Court, the amount for which judgment shall have been given shall be paid by the Receiver-General on the warrant of the Governor.

Payment of compensation recovered.

49. All costs and expenses incurred by the Director of Public Works incident to such inquiry shall be paid by the Receiver-General on the warrant of the Governor.

Costs of Director of Public Works.

50. No claim for compensation in respect of any lands which may be entered upon, surveyed, set out, appropriated or taken under the authority of this Ordinance shall be admitted or entertained, unless the same shall be made within twelve months after the day on which such lands shall have been so entered upon, surveyed, set out, appropriated or taken, as the case may be.

Limitation of time for making claims.

No claim for compensation in respect of any lands which may be alleged to have been injuriously affected by the construction of any public work in respect of which the Legislative Council may have appropriated any money shall be admitted or entertained after the expiration of twelve months computed from the date of a notice published in the *Royal Gazette* by the Director of Public Works certifying the completion of such public work.

51. Nothing in this Ordinance contained shall be construed or deemed to confer upon any person any right to compensation in respect of any land resumed in the name of His Majesty, His Heirs or Successors as required for roads, railways or other public works in pursuance of any condition, reservation or power of resumption contained in any grant of Crown or waste lands.

Resumption under Crown Grant.

52. If in any case in which according to the provisions of this Ordinance the Director of Public Works or person

Owner, &c., refusing to permit entry

or give up
possession.

authorized as aforesaid is authorized to enter upon any lands required for any public work, or in which notice of appropriation of any land has been given in accordance with the provisions of Section 6 or such land has been appropriated under this Ordinance the owner or occupier of or person interested in any such lands or any other person refuse to give up the possession thereof or hinder the Director of Public Works from entering upon or taking possession of the same or from doing or continuing any work thereon as the case may be, it shall be lawful for the Governor to issue his warrant to the Marshal to deliver possession of the same to the Director of Public Works or person authorized as aforesaid, and upon the receipt of such warrant the Marshal shall deliver possession of any such lands accordingly; and the costs accruing by reason of the execution of such warrant to be settled by the Marshal and allowed by the Governor, shall be paid by the person refusing to give possession or hindering the Director of Public Works as aforesaid, and the amount of such costs shall be deducted and retained by the Governor from the compensation, if any, then or thereafter to become payable to such party, and if no compensation be payable to such party, or if the same be less than the amount of such costs, then such costs or the excess thereof beyond such compensation if not paid on demand shall be levied by distress, and upon application to any Justice of the Peace for that purpose he shall issue his warrant accordingly.

Mortgaged
lands.

53. If any person having a mortgage or charge on any lands set out, appropriated or taken for the purposes of this Ordinance, or the trustee for any such person, or the guardian of any infant or committee of any lunatic having such mortgage or charge shall give notice in writing to the Director of Public Works or person authorised as aforesaid within the time specified in the notice after such lands shall have been so set out, appropriated or taken, of the amount due in respect of such mortgage or charge, and the nature and date of the instrument or security under which such mortgage or charge is claimed, it shall then be lawful for the Governor to order the compensation payable in respect of such lands, or so much thereof as shall be sufficient to pay off the amount due in respect of such mortgage or charge, to be deposited in the name and with the privity of the Registrar of the Supreme Court, with the Receiver-

General, to be placed to the credit of the parties having such mortgage or charge in such lands, describing them so far as the Director of Public Works can, subject to the control and disposition of the Supreme Court.

54. If any difficulty or question shall arise as to the title of any lands taken or used for the purposes of this Ordinance, or as to the person entitled to the compensation to be made in respect of such lands or any part thereof, it shall be lawful for the Governor to deposit the compensation payable in respect of such lands, in the name and with the privity of the Registrar of the Supreme Court, with the Receiver-General, to be placed to the credit of the persons interested in such lands, describing them so far as can be done, subject to the control and disposition of the Supreme Court.

Where title disputed compensation to be deposited in Treasury.

55. Upon the application by petition of any person making claim to any moneys deposited under any provision of this Ordinance the Supreme Court may, in a summary way, and after such notice as to the Court shall seem fit, and to such person or persons as the Court shall direct, order distribution and payment of such moneys according to the respective rights and interests of the persons making claim to such moneys or any part thereof, and may make such other order in the premises as to the Court shall seem fit.

Moneys so deposited to be paid on order of Supreme Court.

56. In all cases of moneys deposited under this Ordinance, it shall be lawful for the Supreme Court, if it shall see fit, to order all costs attending the depositing of such moneys, and the orders for the distribution and payment of such moneys and of all proceedings relating thereto except such as are occasioned by litigation between adverse claimants, to be paid by the Receiver-General on the warrant of the Governor.

Costs of payment out, &c., to be paid by Receiver-General.

57. All reasonable costs, charges and expenses incurred by the owners of the land or parties therein interested for all conveyances and assurances of any lands purchased or acquired and of any outstanding terms of interest therein, and of deducing, evidencing and producing title to such lands, terms or interest, and of making out such abstracts and attested copies as the Director of Public Works may require, and all other reasonable expenses incident to the investigation, deduction and verification of titles shall be paid by the Receiver-General on the warrant of the Governor.

Conveyancing costs to be paid by Receiver-General.

Assaulting or
obstructing
officers.

58. If any person shall assault or beat or obstruct or aid or abet any person to assault or beat or obstruct—

- (a.) The Marshal or any of his assistants in the execution of his duty under this Ordinance; or
- (b.) The Director of Public Works or other person authorised as aforesaid, or his workmen, servants or agents in the execution of his or their duty under this Ordinance,

every such person shall be guilty of an offence against this Ordinance, and on summary conviction thereof shall forfeit and pay any sum not exceeding fifty pounds, and in default of payment shall be imprisoned either with or without hard labour for any term not exceeding six months.

Protection of
persons acting
under Ordinance.

59. For the protection of persons acting in execution of this Ordinance, all actions and prosecutions to be commenced against the Director of Public Works or person authorized as aforesaid, or his workmen, servants or agents for anything done by him or them in pursuance of this Ordinance shall be commenced within six calendar months after the act committed and not otherwise.

Notice in writing of such action and of the cause or causes thereof shall be given to the defendant one calendar month at least before the commencement of the action.

In any such action the defendant may plead the general issue and give this Ordinance and the special matter in evidence in any trial to be had thereupon.

No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought: or if a sufficient sum of money shall have been paid into Court by or on behalf of the defendant after such action brought, and notice of such payment has been given to the plaintiff or his solicitor.

If a judgment shall pass for the defendant, or the plaintiff shall become nonsuit or discontinue any such action, the defendant shall be entitled to his full costs of suit to be taxed as between solicitor and client and have the like remedy for the same as any defendant has by law in other cases.

Acquisition by
Local Road
Boards.

60. A Local Road Board constituted under the provisions of the Roads Ordinance may at any time by their proper

officers exercise all the powers of this Ordinance in respect of the entry into and acquisition of lands required for the improvement of existing roads, and (subject to the provisions of the said Ordinance) in respect of the formation of new roads within its district, without any other further authorization or sanction than in such Ordinance provided, in the same manner in all respects as if the Road Officer of such Board were one of the persons included in the expression "Director of Public Works" in Section 2 hereof, and in such case a resolution of the Board shall for the purpose of authorising the entry into lands be deemed equivalent to the appropriation of moneys by the Legislative Council in Section 3 hereof mentioned.

61. Any municipal or other public corporation in the execution of its corporate duties, and any other corporation, company or other persons who shall have obtained the sanction of the Governor and Legislative Council for the undertaking, erection or provision for the benefit of the inhabitants of any municipal or other district, or in the case of a company or other persons for the benefit of the shareholders of such company or of such persons respectively, of railways, tramways, the supply of lighting, electricity, water or power, or for other work of a public nature, may from time to time by order of the Governor in Executive Council and on the conditions in the following sections hereof mentioned, exercise the powers of this Ordinance for the acquisition of such land as the Governor in Executive Council may by order authorize to be acquired for such purposes or such undertaking, and in such case the powers of the Director of Public Works may be exercised in respect of the acquisition of land by or on behalf of such corporation, company or other persons.

Application of Ordinance to municipalities, companies, etc.

62. It shall be lawful for the Governor in Executive Council to stipulate with the promoters as a condition for the authorization of the acquisition of land under this Ordinance by or on behalf of such corporation, company or other persons as may be deemed desirable in respect of the following matters, that is to say: sufficient security for payment of the cost of the acquisition and other compensation; the terms on which the land shall be held; the time within which and the conditions under which the work shall be executed and maintained; and the terms on which the public shall be entitled to use the work and to deal with the promoters.

Conditions to be imposed on grant of authorization.

Such stipulations if accepted by the promoters shall be embodied in the order of the Governor in Executive Council in Section 61 hereof mentioned, and shall be binding upon such corporation, company or other persons and upon the public, and in such case the publication thereof shall for the purposes of Section 3 hereof be deemed equivalent to the appropriation of moneys by the Legislative Council towards any public work.

Effect of
legalisation
and
authorisation.

63. On the publication of the order in the last section provided for, the promoters shall be entitled subject to any special directions as in the said section provided, to acquire lands compulsorily as in this Ordinance provided, and the lands when acquired shall vest in the promoters, and the promoters and their solicitor, agents, servants and workmen shall be empowered to do the several acts and things by this Ordinance made lawful for the Crown Solicitor and the Director of Public Works and other Government Officers and servants, and all moneys payable to or by the Receiver-General in the case of acquisition by the Governor as in this Ordinance provided shall in such case be paid to or by the promoters, and all the provisions of this Ordinance shall apply, *mutatis mutandis*, as far as the same are applicable.

Consent of
Governor.

64. The consent of the Governor in Executive Council shall not be given unless and until he be satisfied by enquiry to be held by such officer and at such time and place as the Governor shall appoint, that such acquisition is needed for the construction of some work which is likely to prove useful to the public, and also as to the various matters and things provided for in Section 62 hereof.

No. 43.

AN ORDINANCE relating to the sale of Infants' Estates.

1. This Ordinance may be cited as the Sale of Infants' Short title.
Estates Ordinance.

2. The word "Lands" in this Ordinance shall signify all hereditaments of any tenure and all estates or interest in any lands, not being settled estates within the meaning of the Leases and Sales of Settled Estates Ordinance.

Definition of
"lands."

No. 45.

3. It shall be lawful for the Supreme Court on the petition of any infant by his guardian or next friend, if it shall deem it proper and for the benefit of such infant, from time to time to authorise the sale of any lands of such infant, subject, if the Court shall so direct, to any charge or incumbrance affecting the same; and every such sale shall be conducted and confirmed in the same manner as by the rules and practice of the Court for the time being is or shall be required in the sale of lands sold under a decree of the Court.

Court to
authorise sale
of infants'
lands.

4. Notice of any petition to the Court under this Ordinance shall be inserted in such newspapers as the Court shall direct, and any person or body corporate, whether interested in the lands or not, may apply to the Court by motion for leave to be heard in opposition to or in support of any petition which may be made to the Court under this Ordinance, and the Court is hereby authorised to permit such person or corporation to appear and be heard in opposition to or in support of any such petition on such terms as to costs or otherwise, and in such manner as it shall think fit.

Notice of
petitions to be
published and
persons may
be heard.

5. All money to be received on any sale effected under the authority of this Ordinance shall be paid to the Receiver-General, to the account of the Registrar of the Court *ex parte* the petitioner in the matter of this Ordinance; and such money, after payment of any costs attending such petition which may be allowed by the Court, shall be applied as the Court shall from time to time direct, to some one or more of the following purposes, namely: The discharge or redemption of any incumbrance affecting the hereditaments in respect of which such money was paid, or the payment to any person becoming absolutely entitled,

Moneys to be
paid into
Treasury and
applied to
certain
purposes.

Money to be
invested
pending
application.

No. 49.

6. Until the money can be applied as aforesaid, the same shall be from time to time invested in such securities authorized by the Supreme Court Funds Investment Ordinance as the Court shall think fit, and the interest or dividends of such securities or such parts thereof as the Court may from time to time direct, shall be paid to the guardian for the time being of the infant, or such other person as would have been entitled to the rents and profits of the lands so sold if the same had not been sold.

Rules.

7. The Court may, if it shall think fit, from time to time make general rules and orders for carrying the purposes of this Ordinance into effect and for regulating the times and form and mode of procedure and generally the practice of the Court in respect of the matters to which this Ordinance relates, and for regulating the fees and allowances to all officers and solicitors of the Court in respect of such matters; and such rules or orders may from time to time be rescinded or altered by the like authority; and all such rules and orders shall take effect as general orders of the Court.

Rules to be
approved by
Council.

8. All general rules and orders made as aforesaid shall, immediately after the making and issuing thereof, be laid before the Legislative Council; and it shall be lawful for the Legislative Council to resolve that the same or any part thereof ought not to continue in force, and thereupon the same shall cease to be binding.

No. 44.

AN ORDINANCE relating to the Custody of Infants.

1. This Ordinance may be cited as the Custody of Infants Short title.
Ordinance.

2. It shall be lawful for the Supreme Court, upon hearing the petition by her next friend of the mother of any infant or infants under sixteen years of age, to order that the petitioner shall have access to such infant or infants at such times and subject to such regulations as the Court shall deem proper, or to order that such infant or infants shall be delivered to the mother, and remain in or under her custody or control, or shall, if already in her custody or under her control, remain therein until such infant or infants shall attain such age, not exceeding sixteen, as the Court shall direct; and further, to order that such custody or control shall be subject to such regulations as regards access by the father or guardian of such infant or infants, and otherwise, as the said Court shall deem proper.

Court may
order mother
to have access
to and custody
of infant under
sixteen.

3. No agreement contained in any separation deed made between the father and mother of an infant or infants shall be held to be invalid by reason only of its providing that the father of such infant or infants shall give up the custody or control thereof to the mother: Provided always that no Court shall enforce any such agreement if the Court shall be of opinion that it will not be for the benefit of the infant or infants to give effect thereto.

In case of
separation
deed between
father and
mother.

No. 45.

AN ORDINANCE relating to Leases and Sales of Settled Estates.

WHEREAS it is expedient that the Supreme Court should have power in certain cases to authorise leases and sales of settled estates, where it shall deem that such leases or sales would be proper and consistent, with a due regard for the interests of all parties entitled under the Settlement, and it is also expedient that persons in possession of land for certain limited interests should have power to grant agricultural or occupation leases thereof at rack-rent for a reasonable period: Be it enacted as follows:—

Short title.

1. This Ordinance may be cited as the Leases and Sales of Settled Estates Ordinance.

Interpretation.

2. The word "Settlement" as used in this Ordinance, shall signify any deed, agreement, will, or other instrument, or any number of such instruments, under or by virtue of which any hereditaments of any tenure or any estates or interests in any such hereditaments stand limited to or in trust for any persons, by way of succession, including any such instruments affecting the estate of any one or more of such persons exclusively; and the term "settled estates," as used in this Ordinance, shall signify all hereditaments of any tenure, and all estates or interests in any such hereditaments which are the subject of a settlement, and for the purposes of this Ordinance a tenant in tail, after possibility of issue extinct, shall be deemed to be a tenant for life, and all estates or interests in remainder or reversion not disposed of by the settlement, and reverting to a settlor, or descending to the heir of a testator shall be deemed to be estates coming to such settlor or heir under or by virtue of the settlement.

Court may authorise leases subject to conditions.

3. It shall be lawful for the Supreme Court, if it shall deem it proper and consistent, with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Ordinance contained, to authorize leases of any settled estates, or of any rights or privileges over or affecting any settled estates, for any purpose whatsoever, whether involving waste or not, provided the following conditions be observed:—

(1.) Every such lease shall be made to take effect in

possession at or within one year next after the making thereof, and shall be for a term of years not exceeding for an agricultural or occupation lease twenty-one years, for a mining lease or a lease of easements forty years, for a repairing lease sixty years, and for a building lease ninety-nine years.

(2.) On every such lease shall be reserved the best rent, or reservation in the nature of rent either uniform or not, that can be reasonably obtained, to be made payable half-yearly or oftener, without taking any fine or other benefit in the nature of a fine.

(3.) When the lease is of any earth, stone, or mineral, a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested as hereinafter mentioned, namely, when and so long as the person for the time being entitled to the receipt of such rent is a person who, by reason of his estate or by virtue of any declaration in the settlement, is entitled to work such earth, stone, or mineral for his own benefit, one-fourth part of such rent, and otherwise three-fourth parts thereof; and in every such lease sufficient provision shall be made to ensure such application of the aforesaid portion of the rent, by the appointment of trustees or otherwise, as the Court shall deem expedient.

(4.) Every such lease shall be by deed, and shall contain a condition for re-entry on non-payment of the rent for a period not less than twenty eight days after it becomes due.

4. Subject and in addition to the conditions hereinbefore mentioned, every such lease shall contain such covenants, conditions and stipulations as the Court shall deem expedient, with reference to the special circumstances of the demise. Special covenants.

5. The power to authorise leases conferred by this Ordinance shall extend to authorise leases either of the whole or of any parts of the settled estates, and may be exercised from time to time. Lease of parts of estates.

6. Any leases, whether granted under this Ordinance or otherwise, may be surrendered, either for the purpose of obtaining a renewal of the same or not, and the power to authorise leases conferred by this Ordinance shall extend to authorise new leases of the whole, or of any part of the hereditaments comprised in any surrendered lease. Surrender and renewal of leases.

- Preliminary contracts.** 7. The power to authorise leases conferred by this Ordinance shall extend to authorise preliminary contracts to grant any such leases; and any of the terms of such contracts may be varied in the leases.
- How leases may be authorised.** 8. The power to authorise leases conferred by this Ordinance may be exercised by the Court, either by approving of particular leases, or by ordering that powers of leasing, in conformity with the provisions of this Ordinance, shall be vested in trustees in manner hereinafter mentioned.
- Evidence on application to authorise leases.** 9. When application is made to the Court either to approve of a particular lease, or to vest any powers of leasing in trustees, the Court shall require the applicant to produce such evidence as it shall deem sufficient to enable it to ascertain the nature, value and circumstances of the estate, and the terms and conditions on which leases thereof ought to be authorised.
- After approval Court to direct who shall be the lessor.** 10. When a particular lease or contract for a lease has been approved by the Court, the Court shall direct what person or persons shall execute the same as lessor; and the lease or contract executed by such person or persons shall take effect in all respects as if he or they was or were at the time of the execution thereof absolutely entitled to the whole estate or interest which is bound by the settlement, and had immediately afterwards settled the same according to the settlement, and so as to operate (if necessary) by way of revocation and appointment of the use or otherwise as the Court shall direct.
- Powers of leasing may be vested in trustees.** 11. Where the Court shall deem it expedient that any general powers of leasing any settled estates conformably to this Ordinance should be vested in trustees, it may by order vest any such power accordingly, either in the existing trustees of the settlement or in any other persons; and such powers when exercised by such trustees, shall take effect in all respects as if the powers so vested in them had been originally contained in the settlement, and so as to operate (if necessary) by way of revocation and appointment of the use, or otherwise as the Court shall direct; and in every such case the Court, if it shall think fit, may impose any conditions as to consents, or otherwise, on the exercise of such power, and the Court may also authorise the insertion of provisions for the appointment of new trustees from time

to time for the purpose of exercising such powers of leasing as aforesaid.

12. It shall be lawful for the Court, if it shall deem it proper and consistent, with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Ordinance contained, from time to time to authorize a sale of the whole, or any parts of any settled estates; and every such sale shall be conducted and confirmed in the same manner as, by the rules and practice of the Court for the time being, is or shall be required in the sale of lands sold under a decree of the Court.

Court may
authorise sales
of settled
estates.

13. When any land is sold for building purposes, it shall be lawful for the Court, if it shall see fit, to allow the whole or any part of the consideration to be a rent issuing out of such land, which may be secured and settled in such manner as the Court shall approve.

Consideration
for land sold
for building
may be rent
issuing out of
such land.

14. On any sale of land, any earth, stone or mineral may be excepted and any rights or privileges may be reserved, and the purchaser may be required to enter into any covenants or submit to any restrictions which the Court may deem advisable.

Minerals, &c.,
may be
excepted.

15. It shall be lawful for the Court, if it shall deem it proper and consistent, with a due regard to the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Ordinance contained, from time to time to direct that any part of any settled estates be laid out for streets, roads, paths, squares, gardens, or other open spaces, sewers, drains, or watercourses, either to be dedicated to the public or not, and the Court may direct that the parts so laid out shall remain vested in the trustees of the settlement, or be conveyed to and vested in any other trustees, upon such trusts for securing the continued appropriation thereof to the purposes aforesaid in all respects, and with such provisions for the appointment of new trustees when required, as by the Court shall be deemed advisable.

Court may
authorise
dedication of
parts of
settled estates
for roads, &c.

16. On every sale or dedication to be effected as hereinbefore mentioned, the Court may direct what person or persons shall execute the deed of conveyance, and the deed executed by such person or persons shall take effect as if the settlement had contained a power enabling such person

How sales and
dedications are
to be effected
under
direction of
Court.

or persons to effect such sale or dedication, and so as to operate (if necessary) by way of revocation and appointment of the use, or otherwise as the Court shall direct.

Application by
petition to
exercise
powers.

17. Any person entitled to the possession or to the receipt of the rents and profits of any settled estates for a term of years determinable on his death, or for an estate for life or any greater estate, may apply to the Court, by petition in a summary way, to exercise the powers conferred by this Ordinance.

Consent to
application.

18. Subject to the exception contained in the next section, every application to the Court must be made with the concurrence or consent of the following parties; namely, where there is a tenant in tail under the settlement in existence, and of full age, then the parties to concur or consent shall be such tenant in tail, or if there is more than one such tenant in tail, then the first of such tenants in tail; and all persons in existence having any beneficial estate or interest under or by virtue of the settlement prior to the estate of such tenant in tail, and all trustees having any estate or interest on behalf of any unborn child prior to the estate of such tenant in tail; and in every other case the parties to concur or consent shall be all the persons in existence having any beneficial estate or interest under or by virtue of the settlement, and also all trustees having any estate or interest on behalf of any unborn child.

Petition may
be granted
without
consent,
reserving
rights of non-
consenting
parties.

19. Provided nevertheless, that unless there shall be a person entitled to an estate of inheritance whose consent or concurrence shall have been refused or cannot be obtained, it shall be lawful for the Court if it shall think fit, to give effect to any petition, subject to and so as not to affect the rights, estate or interest of any person whose consent or concurrence has been refused or cannot be obtained, or whose rights, estate or interest ought in the opinion of the Court to be excepted.

Notice of
application to
be served on
all trustees,
&c.

20. Notice of any application to the Court under this Ordinance shall be served on all trustees who are seized or possessed of any estate in trust for any person whose consent or concurrence to or in the application is hereby required, and on any other parties who, in the opinion of the Court ought to be so served, unless the Court shall think fit to dispense with such notice; and a service of such notice on any person resident out of this Colony shall be sufficient notice under this Ordinance.

21. Notice of any application to the Court under this Ordinance shall be inserted in such newspapers as the Court shall direct, and any person or body corporate, whether interested in the estate or not, may apply to the Court by motion for leave to be heard in opposition to or in support of any application which may be made to the Court under this Ordinance, and the Court is hereby authorized to permit such person or corporation to appear and be heard in opposition to or in support of any such application on such terms as to costs or otherwise, and in such manner as it shall think fit.

Notice of application to be given in newspapers.

22. The Court shall direct that some sufficient notice of any exercise of any of the powers conferred on it by this Ordinance shall be placed on the settlement or otherwise recorded in any way it may think proper, in all cases where it shall appear to the Court to be practicable and expedient for preventing fraud or mistake.

Notice of exercise of powers to be given by Court.

23. All money to be received on any sale effected under the authority of this Ordinance, or to be set aside out of the rent or payments reserved on any lease of earth, stone or minerals as aforesaid, may, if the Court shall think fit, be paid to any trustees of whom it shall approve, or otherwise the same shall be paid into the Colonial Treasury to the account of the Registrar of the Court, *ex parte* the applicant in the matter of this Ordinance; and in either case such money shall be applied as the Court shall from time to time direct to some one or more of the following purposes, namely:—The discharge or redemption of any incumbrance affecting the hereditaments in respect of which such money was paid, or affecting any other hereditaments subject to the same uses or trusts; or the payment to any person becoming absolutely entitled.

Court may appoint trustees to receive and apply moneys arising from sales.

24. The application of the money in manner aforesaid may, if the Court shall so direct, be made by the trustees (if any) without any application to the Court, or otherwise upon an order of the Court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land.

Trustees may apply moneys without application to Court.

25. Until the money can be applied as aforesaid, the same shall be from time to time invested in such securities as the Court shall think fit, and the interests or dividends

Until money applied, to be invested and interest paid to

parties
entitled.

of such securities shall be paid to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land.

Court may
exercise
powers
repeatedly;
but not if
expressly
negatived.

26. The Court shall be at liberty to exercise any of the powers conferred on it by this Ordinance, whether the Court shall have already exercised any of the powers conferred by this Ordinance in respect of the same property or not; but no such powers shall be exercised if an express declaration or manifest intention that they shall not be exercised is contained in the settlement, or may reasonably be inferred therefrom, or from extrinsic circumstances or evidence: Provided always that the circumstance of the settlement containing powers to effect similar purposes shall not preclude the Court from exercising any of the powers conferred by this Ordinance, if it shall think that the powers contained in the settlement ought to be extended.

Court not to
authorise act
which could
not have been
authorised by
settlor.

27. Nothing in this Ordinance shall be construed to empower the Court to authorise any lease, sale or other act beyond the extent to which, in the opinion of the Court, the same might have been authorised in and by the settlement by the settlor or settlers.

Acts of Court
not to be
invalidated.

28. After the completion of any lease or sale, or other act under the authority of the Court and purporting to be in pursuance of this Ordinance, the same shall not be invalidated on the ground that the Court was not hereby empowered to authorise the same; except that no such lease, sale or other act shall have any effect against any person whose concurrence in or consent to the application ought to have been obtained, and was not obtained.

Costs.

29. It shall be lawful for the Court, if it shall think fit, to order that all or any costs or expenses of all or any parties of and incident to any application under this Ordinance shall be a charge on the hereditaments which are the subject of the application, or on any other hereditaments included in the same settlement, and subject to the same limitations; and the Court may also direct that such costs and expenses shall be raised by sale or mortgage of a sufficient part of such hereditaments, or out of the rents or profits thereof, such costs and expenses to be taxed as the Court shall direct.

Court may
make general

30. The Court may, if it shall think fit, from time to time make general rules and orders for carrying the purposes of

this Ordinance into effect, and for regulating the times and form and mode of procedure, and generally the practice of the Court in respect of the matters to which this Ordinance relates, and for regulating the fees and allowances to all officers and solicitors of the Court in respect to such matters, and such rules and orders may from time to time be rescinded or altered by the like authority; and all such rules and orders shall take effect as general orders of the Court.

rules and
orders.

31. All general rules and orders made as aforesaid shall immediately after the making and issuing thereof be laid before the Legislative Council, and it shall be lawful for the Council to resolve that the same or any part thereof ought not to continue in force; and thereupon the same shall cease to be binding.

Rules and
orders to be
laid before
Legislative
Council.

32. It shall be lawful for any person entitled to the possession or to the receipt of the rents and profits of any settled estates for an estate for life or for a term of years determinable with his life, or for any greater estate, either in his own right or in right of his wife, unless the settlement shall contain an express declaration that it shall not be lawful for such person to make such demise; and also for any person entitled to the possession or to the receipt of the rents and profits of any unsettled estates as tenant by the courtesy or in dower, or in right of a wife who is seized in fee, without any application to the Court, to demise the same or any part thereof, from time to time for any term not exceeding twenty-one years to take effect in possession; provided that every such demise be made by deed, and the best rent that can reasonably be obtained be thereby reserved, without any fine or other benefit in the nature of a fine, which rent shall be incident to the immediate reversion; and provided that such demise be not made without impeachment of waste, and do contain a covenant for payment of the rent, and such other usual and proper covenants as the lessor shall think fit, and also a condition of re-entry on non-payment for a period not less than twenty-eight days of the rent thereby reserved, and on non-observance of any of the covenants or conditions therein contained.

Tenants for
life, &c., may
grant leases
for twenty-one
years.

33. Every demise authorised by the last preceding section shall be valid against the person granting the same, and all other persons entitled to estates subsequent to the estate of

Against whom
such leases
shall be valid.

such person under or by virtue of the same settlement, if the estates be settled; and in the case of unsettled estates against all persons claiming through or under the wife or husband (as the case may be) of the person granting the same, and against the wife of any husband making such demise of estates to which he is entitled in right of such wife.

Infants,
lunatics, &c.

34. All powers given by this Ordinance and all applications to the Court under this Ordinance and consents to such applications, may be exercised, made or given by guardians on behalf of infants and by committees on behalf of lunatics and by trustees in bankruptcy: Provided nevertheless, that in the case of infant or lunatic tenants in tail no application to the Court or consent to any application may be made or given by any guardian or committee without the special direction of the Court.

Married
woman to be
examined
apart from
husband.

35. Where a married woman shall apply to the Court or consent to an application to the Court under this Ordinance, she shall first be examined apart from her husband touching her knowledge of the nature and effect of the application, and it shall be ascertained that she freely desires to make or consent to such application; and such examination shall be made whether the hereditaments which are the subject of the application shall be settled in trust for the separate use of such married woman independently of her husband, or not; and no clause or provision in any settlement restraining anticipation shall prevent the Court from exercising, if it shall think fit, any of the powers given by this Ordinance, and no such exercise shall occasion any forfeiture, anything in the settlement contained to the contrary notwithstanding.

Clauses
restraining
anticipation.

Such
examination
to be by Court
or person
appointed by
Court.

36. The examination of such married woman, where made in this Colony, shall be made by the Court, and where made out of this Colony shall be made by some person duly appointed by the Court for that purpose who shall certify, under his hand, that he has examined her apart from her husband, and is satisfied that she is aware of the nature and effect of the intended application, and that she freely desires to make or consent to the same.

Consent of
married
woman under
age.

37. Subject to such examination as aforesaid, married women may make or consent to any applications whether they be of full age or infants.

38. Nothing in this Ordinance shall be construed to create any obligation at law or in equity on any person to make or consent to any application to the Court or to exercise any power. No equity to compel any one to apply to Court.

39. For the purposes of this Ordinance, a person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of estates, although his estate may be charged or incumbered either by himself or by the settlor, or otherwise howsoever, to any extent, but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and profits as aforesaid unless they shall concur therein. Tenants for life, &c., may exercise powers notwithstanding incumbrances.

No. 46.

AN ORDINANCE regulating the procedure in cases of Lunatics.

- Short title.** 1. This Ordinance may be cited as the Lunatics (Procedure) Ordinance.
- Court may order inquiry.** 2. It shall be lawful for the Supreme Court or any Judge thereof on petition, and on its being made to appear by affidavit that any person is of unsound mind and incapable of managing himself or his affairs to order that an inquiry be had under this Ordinance.
- Address of Petitions.** 3. All petitions in lunacy shall be addressed to the Chief Justice and the Judges of the Supreme Court.
- Inquiry to be confined to certain points.** 4. The inquiry to be made under this Ordinance shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of such inquiry of unsound mind, and incapable of managing himself or his affairs, and no evidence as to anything done or said by such person, or as to his demeanour or state of mind at any time being more than two years before the time of the inquiry shall be receivable in proof of insanity on any such inquiry, unless the Court or Judge shall otherwise direct.
- Inquiry may be before Court or jury.** 5. Such inquiry shall be had by and before the Supreme Court unless the alleged lunatic shall demand an inquiry before a jury, and the Court or Judge shall order that the inquiry be before a jury.
- Lunatic may demand a jury.** 6. Upon the hearing of any petition for inquiry it shall be lawful for the alleged lunatic by himself or his Counsel or Solicitor orally or by petition addressed to the Supreme Court to demand an inquiry by a jury.
- Lunatic to be examined.** 7. On every such inquiry the alleged insane person shall, if he is within the Colony, be examined before the taking of the evidence is commenced, and also at the close of the proceedings before the jury consult as to their verdict, unless on the inquiry before a jury the presiding Judge shall otherwise direct, and such examinations of the alleged insane person shall take place either in open Court or in private as the Court or Judge presiding shall direct.
- New trial.** 8. It shall be lawful for the Supreme Court if they shall

think fit, upon a petition being presented to them within three months next after any inquiry before a jury, to order that a new trial shall be had of such issue or a new inquiry as to the insanity of such person made before the Supreme Court subject to such directions and upon such conditions as to the Court may seem proper.

9. Where the Court or Judge shall direct an inquiry to be had before a jury a precept shall issue to the Marshal, who shall thereupon summon a jury of not less than thirty six persons from the persons liable to serve as Jurors for the trial of issues in the Supreme Court. Jury to be summoned by Marshal.

10. On every such inquiry the jury shall consist of eighteen persons at the least who shall be sworn, and twelve at least of the persons so sworn shall concur in the verdict to be given on such inquiry. Jury to be of 18, and 12 to concur in verdict.

11. It shall be lawful for the Supreme Court to order the costs, charges and expenses of any inquiry or other proceedings under this Ordinance to be paid either by the party or parties who shall have presented such petition or by the party or parties opposing such petition or out of the estate of the alleged lunatic or partly in one way and partly in another as the Court shall in each case think proper. Costs.

12. Where it shall be established on affidavit to the satisfaction of the Supreme Court that any person is of unsound mind and incapable of managing his affairs, and that his property does not exceed one thousand pounds in value, or that the income thereof does not exceed fifty pounds per annum, the Supreme Court may, without directing any inquiry, make such order as the said Court may consider expedient for the purpose of rendering the property of such person, or the income thereof, available for his maintenance or benefit, or for carrying on his trade or business: Provided that the alleged insane person shall have such personal notice of the application for such order as aforesaid as the said Court shall, by general order to be made as hereinafter mentioned, direct. Orders as to property of limited amount.

13. For the purpose of giving effect to any such order the Supreme Court may order any land, stock or other property of such person as aforesaid to be sold, charged by way of mortgage, or otherwise disposed of, and a conveyance, transfer, charge or other disposition thereof to be Orders as to sale of property.

executed or made by any person on his behalf, and may order the proceeds of any such sale, charge or other disposition or the dividends or income of such land, stock or property to be paid to any relative of such insane person or to such other person as it may be considered proper to trust with the application thereof, to be by him applied in the maintenance or for the benefit of the insane person, or of him and his family, either at the discretion of such relative or person or in such manner and subject to such control, and with or without such security for the application thereof, as the said Court may direct.

Property of
person
acquitted on
ground of
insanity.

14. Where any person shall on the trial of any indictment have been acquitted on the ground of insanity it shall be lawful for the Supreme Court on being satisfied by affidavit or otherwise of the continued insanity of such person, and of his being still in confinement, to make any such order with respect to the property of such person, and the application thereof for his maintenance or benefit or that of his family, or for carrying on his trade or business as is mentioned in the preceding section of this Ordinance.

Orders for
regulating
procedure.

15. The Judges of the Supreme Court may from time to time make such general orders as they may think fit for regulating the procedure to be adopted under this Ordinance.

No. 47.

AN ORDINANCE to protect the property of Married Women deserted by their Husbands.

1. This Ordinance may be cited as the Married Women's Property (Desertion) Ordinance. Short title.

2. A wife deserted by her husband may at any time after such desertion apply by petition to the Supreme Court for an order to protect any money acquired by her own lawful industry and property which she may become possessed of after such desertion against her husband or his creditors, or any person claiming under him; and the said Court, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and property acquired since the commencement of such desertion from her husband and all creditors and persons claiming under him, and such earnings and property shall belong to the wife as if she were a *feme sole*: Provided that every such order shall within ten days after the making thereof be entered with the Registrar-General, and that it shall be lawful for the husband and any creditor or other person claiming under him to apply to the Court for the discharge thereof. Court may grant order for protection of property of deserted wife.

3. If the husband, or any creditor of or person claiming under the husband, shall seize or continue to hold any property of the wife after notice of any such order, he shall be liable at the suit of the wife (which she is hereby empowered to bring) to restore the specific property, and also for a sum equal to double the value of the property so seized or held after such notice as aforesaid. Husband seizing wife's property liable to restore it and double its value.

4. If any such order of protection be made the wife shall, during the continuance thereof, be and be deemed to have been during such desertion of her husband in the like position in all respects with regard to property and contracts and suing and being sued as if she were a *feme sole*. During continuance of order wife to be as a feme sole.

No. 48.

AN ORDINANCE relating to the payment of debts out of Real Estate.

Short title. 1. This Ordinance may be cited as the Real Estate (payment of debts) Ordinance.

Court may order mortgage instead of sale of lands. 2. Where any suit has been or shall be instituted in the Supreme Court for the payment of any debt or debts of any person deceased, it shall be lawful for the Court (if it shall think fit so to do) to direct a mortgage, instead of a sale, of any lands, tenements or hereditaments liable to the payment of such debt or debts.

Application of surplus. 3. The surplus (if any) of the money raised by such mortgage, which shall remain after answering the purposes for which the same shall have been raised, and defraying all reasonable costs and expenses, shall be considered in all respects of the same nature, and descend or devolve in the same manner, as the lands, tenements or hereditaments so mortgaged, and shall belong to the same persons, be subject to the same limitations and provisions and be applicable to the same purposes as such lands, tenements or hereditaments would have belonged and been subject and applicable to in case no such mortgage had been made.

Registrar may execute Mortgage. 4. The Registrar of the Supreme Court shall have power to execute any deed of mortgage which shall be made in pursuance of any such direction, and which shall have been approved of by the Court, and every deed so executed shall have the same force and effect as if the same had been executed by the person or persons bound by the direction that such monies shall be raised by mortgage instead of sale.

No. 49.

AN ORDINANCE to regulate the investment of Supreme Court Funds.

1. This Ordinance may be cited as the Supreme Court Funds Investment Ordinance. Short title.

2. Notwithstanding anything contained in any Ordinance to the contrary, all moneys paid into Court in any cause or matter, and all moneys under the control of, or subject to the order of the Court or a Judge of the Court may be invested in the stocks, funds or securities referred to in this and the following sections of this Ordinance and in no other stocks, funds or securities whatever; namely:—

Securities in which Funds may be invested.

- (a.) The securities that now are or may from time to time hereafter be authorized by rule of the High Court of Justice in England or by any rule from time to time amending the same or by any Imperial Statute for the time being in force in England for the investment of cash under the control of the said Court.
- (b.) Trinidad inscribed stock raised under the provisions of the Incribed Stock Ordinance or of any Ordinance by which authority is given to raise any sum of money by way of loan repayable by the Government of the Colony.
- (c.) By depositing such moneys in the Government Savings Bank to the credit of an account in the names of the trustees or if there are no trustees then in such names or name as a Judge of the Court shall order with in every case the addition of the words "in trust" to the title of such account.
- (d.) In the purchase or on the security of freehold land in the Colony.

3. Moneys deposited in the Savings Bank under the provisions of the last section hereof may be deposited to any amount in any particular case and shall bear interest notwithstanding anything contained in the Savings Bank Ordinance and such interest shall be paid on any such deposits, irrespective of amount, as shall be from time to time paid to depositors in the said Bank.

Interest on funds in Savings Bank.

Notice of
withdrawal
from Savings
Bank.

4. No moneys in the Savings Bank standing to the credit of an account "in trust" shall be paid out (except according to any rule of Court under Section 7 hereof or in any particular case under a general or special direction for such payment by a Judge of the Supreme Court) unless and until two weeks notice of withdrawal has been given to the Receiver-General under the hands of the persons in whose names such account for the time being stands. A copy of every such notice shall be forthwith forwarded by the Receiver-General to the Registrar of the Supreme Court.

Notice of
withdrawal of
sums over
£1,000.

5. The Governor may from time to time prescribe the length of notice (in addition to the notice mentioned in Section 4 hereof if any such additional notice is deemed necessary) which shall be given before withdrawal of Court deposits from the said Bank where such deposits shall exceed the sum of £1,000. Deposits of £1,000 or less shall be subject to the general regulations of the Bank as to withdrawal, subject however in all cases to the provisions of the last preceding section hereof.

Conditions of
investment in
land.

6. Monies shall not be invested in the purchase or on mortgage of freehold land in the Colony where such land consists of a sugar estate nor in the case of any other land except on application by or on behalf of some party beneficially interested or except with the consent of all parties entitled in possession or remainder or reversion who are *sui juris*, or except such purchase is for the advantage of such parties as are not *sui juris*. Such monies shall not be directed to be invested on mortgage of freehold lands in any case in which the Judge is not satisfied as to the matters in this section before mentioned or on other than first mortgage on such land or until the Court is satisfied as to the title of such land. Nor shall such monies be invested on such security to any amount exceeding one half the valuation of such lands, to be ascertained as hereinafter provided. As to the value of any lands proposed for purchase or by way of security the Judge shall require to be satisfied thereof by the report of any such two persons as he in his discretion may appoint for such purpose.

Rules.

7. It shall be lawful for the Chief Justice with the concurrence of a Puisne Judge to make any rules that may be considered necessary to carry this Ordinance into effect, and such rules shall be published in the *Royal Gazette*.

No. 50.

AN ORDINANCE to authorise the Supreme Court to proceed by way of Sale in lieu of Partition.

1. This Ordinance may be cited as the Partition Ordinance. Short title.

2. It shall be lawful for the Supreme Court in any suit for partition, if such Court shall see fit in lieu of ordering a partition to order that such lands or any of them be sold subject to any incumbrances on the same under such terms and with such directions as the Court shall see fit, and the moneys arising from such sale shall be divided between the several tenants of such lands according to their respective interests in the same. Sale in lieu of partition.

3. It shall be lawful for any person, party to any suit for Partition, with the leave of the Court, to be granted on such terms and conditions as to the Court shall seem meet, to bid for and become the purchaser of any such lands which may be so ordered to be sold. Leave to bid.

4. Where any lands shall be sold under any such order or decree, the same shall be conveyed by the Registrar of the Supreme Court to the purchaser of such lands, and every such conveyance shall have the same force and effect as if the same had been executed by the several tenants of such lands, being parties in the cause. Conveyance by Registrar.

No. 51.

AN ORDINANCE for regulating proceedings in
Bankruptcy.

Short title. 1. This Ordinance may be cited as the Bankruptcy Ordinance.

Interpretation. 2. In this Ordinance, if not inconsistent with the context, the following terms shall have the meanings hereinafter respectively assigned to them; that is to say,

“The Court” means the Supreme Court sitting in Bankruptcy:

“The Registrar” means the Registrar in Bankruptcy of the Court as above defined:

“Prescribed” means prescribed by rules of Court to be made as in this Ordinance provided:

“Property” means and includes money, goods, things in action, land and every description of property, whether real or personal; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined:

“Debt provable in bankruptcy” includes any debt or liability by this Ordinance made provable in bankruptcy:

“Person” includes a body corporate:

“Trader” means the several persons in that behalf mentioned in the schedule to this Ordinance annexed.

Companies and large partnerships. 3. A partnership association or company corporate, or registered under the Companies Ordinance shall not be adjudged bankrupt under this Ordinance.

PART I.

ADJUDICATION AND VESTING OF PROPERTY.

Adjudication.

Petition for adjudication in bankruptcy. 4. A single creditor, or two or more creditors if the debt due to such single creditor, or the aggregate amount of debts due to such several creditors, from any debtor, amount to a sum of not less than fifty pounds, may present a petition to the Court, praying that the debtor be adjudged a bankrupt, and alleging as the ground for such adjudication any one or

more of the following acts or defaults, hereinafter deemed to be and included under the expression "acts of bankruptcy:"

- (1.) That the debtor has, in this Colony or elsewhere, made a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally:
- (2.) That the debtor has, in this Colony or elsewhere, made a fraudulent conveyance, gift, delivery or transfer of his property or of any part thereof:
- (3.) That the debtor has, with intent to defeat or delay his creditors, done any of the following things, namely, departed out of this Colony, or being out of this Colony remained out of this Colony; or, being a trader, departed from his dwelling house, or otherwise absented himself; or begun to keep house:
- (4.) That the debtor has filed (in the prescribed manner) in the Court a declaration admitting his inability to pay his debts:
- (5.) That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than fifty pounds has in the case of a trader been levied by seizure and sale of his goods:
- (6.) That the creditor presenting the petition has served in the prescribed manner on the debtor a debtor's summons requiring the debtor to pay a sum due, of an amount of not less than fifty pounds, and the debtor has for the space of three weeks succeeding the service of such summons neglected to pay such sum, or to secure or compound for the same.

But no person shall be adjudged a bankrupt on any of the above grounds unless the act of bankruptcy on which the adjudication is grounded has occurred within six months before the presentation of the petition for adjudication; moreover, the debt of the petitioning creditor must be a liquidated sum due at law or in equity, and must not be a secured debt, unless the petitioner state in his petition that he will be ready to give up such security for the benefit of the creditors in the event of the debtor being adjudicated a bankrupt, or unless the petitioner is willing to give an

estimate of the value of his security, in which latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated; but he shall, on an application being made by the trustee within the prescribed time after the date of adjudication, give up his security to such trustee for the benefit of the creditors upon payment of such estimated value.

Proceedings in
relation to
a debtor's
summons.

5. A debtor's summons may be granted by the Court on a creditor proving to its satisfaction that a debt sufficient to support a petition in bankruptcy is due to him from the person against whom the summons is sought, and that the creditor has failed to obtain payment of his debt, after using reasonable efforts to do so. The summons shall be in the prescribed form. It shall state that in the event of the debtor failing to pay the sum specified in the summons or to compound for the same to the satisfaction of the creditor, a petition may be presented against him, praying that he may be adjudged a bankrupt. The summons shall have an endorsement thereon to the like effect, or such other prescribed endorsement as may be best calculated to indicate to the debtor the nature of the document served upon him, and the consequences of inattention to the requisitions therein made.

Any debtor served with a debtor's summons may apply to the Court, in the prescribed manner and within the prescribed time, to dismiss such summons, on the ground that he is not indebted to the creditor serving such summons, or that he is not indebted to such amount as will justify such creditor in presenting a bankruptcy petition against him; and the Court may dismiss the summons, with or without costs, if satisfied with the allegations made by the debtor; or it may, upon such security (if any) being given as the Court may require for payment to the creditor of the debt alleged by him to be due, and the costs of establishing such debt, stay all proceedings on the summons for such time as will be required for the trial of the question relating to such debt.

Proceedings
on petition.

6. A petition praying that a debtor may be adjudged a bankrupt, in this Ordinance referred to as a bankruptcy petition, shall be served in the prescribed manner. At the hearing the Court shall require proof of the debt of the petitioning creditor, and of the trading, if necessary, and of

the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with such proof, shall adjudge the debtor to be bankrupt. The Court may adjourn the petition, either conditionally or unconditionally, for the procurement of further evidence, or for any other just cause, or may dismiss the petition, with or without costs, as the Court thinks just.

7. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such amount as would justify the petitioner in presenting a bankruptcy petition against him, the Court, upon such security (if any) being given as the Court may require, for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing such debt, may stay all proceedings on the petition for such time as may be required for trial of the question relating to such debt.

Proceedings
if debt of
petitioning
creditor is
contested.

Where proceedings are stayed the Court may, if by reason of the delay caused by such stay of proceedings or for any other cause it thinks just, adjudge the debtor a bankrupt on the petition of some other creditor, and shall thereupon dismiss, upon such terms as it thinks just, the petition, proceedings in which have been stayed as aforesaid.

8. A copy of an order of the Court adjudging the debtor to be bankrupt shall be published in the *Royal Gazette*, and be advertised in such manner (if any) as may be prescribed, and the date of such order shall be the date of the adjudication for the purpose of this Ordinance, and production of a copy of the *Gazette* containing such order as aforesaid shall be conclusive evidence in all legal proceedings of the debtor having been duly adjudged a bankrupt, and of the date of the adjudication.

Advertisement
of order of
adjudication.

9. The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being completed on which the order is made adjudging him to be bankrupt; or if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to and to commence at the time of the first of the acts of bankruptcy that may be proved to have been committed by the bankrupt within twelve months next preceding the order of adjudication; but the bankruptcy

Definition of
commence-
ment of
bankruptcy.

shall not relate to any prior act of bankruptcy, unless it be that at the time of committing such prior act the bankrupt was indebted to some creditor or creditors in a sum or sums sufficient to support a petition in bankruptcy, and unless such debt or debts are still remaining due at the time of the adjudication.

Creditors
bound by
bankruptcy
proceedings.

10. Where a debtor shall be adjudicated a bankrupt, no creditor to whom the bankrupt is indebted in respect of any debt provable in the bankruptcy shall have any remedy against the property or person of the bankrupt in respect of such debt except in the manner directed by this Ordinance. But this section shall not affect the power of any creditor holding a security upon the property of the bankrupt to realise or otherwise deal with such security in the same manner as he would have been entitled to realise or deal with the same if this section had not been passed.

Court after
presentation of
petition may
restrain suits,
etc., and
appoint
receiver.

11. The Court may, at any time after the presentation of a bankruptcy petition against the debtor, restrain further proceedings in any action, suit, execution, or other legal process against the debtor in respect of any debt provable in bankruptcy, or it may allow such proceedings, whether in progress at the commencement of the bankruptcy or commenced during its continuance, to proceed upon such terms as the Court may think just. The Court may also, at any time after the presentation of such petition, appoint a receiver or manager of the property or business of the debtor against whom the petition is presented, or of any part thereof, and may direct immediate possession to be taken of such property or business, or any part thereof.

Appointment of Trustee.

Meeting of
creditors for
appointment
of persons to
administer
bankrupt's
property.

12. When an order has been made adjudging a debtor bankrupt, herein referred to as an order of adjudication, the property of the bankrupt shall become divisible amongst his creditors in proportion to the debts proved by them in the bankruptcy; and for the purpose of effecting such division the Court shall, as soon as may be, summon a general meeting of his creditors, and the creditors assembled at such meeting shall and may do as follows:—

1. They shall by resolution appoint some person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt, at such

remuneration as they may from time to time determine, if any ; or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned :

2. They shall, when they appoint a trustee, by resolution declare what security is to be given, and to whom, by the person so appointed, before he enters on the office of trustee :
3. They shall by resolution appoint some other fit persons, not exceeding five in number, and being creditors qualified to vote at such first meeting of creditors as is in this Ordinance mentioned, or authorised in the prescribed form by creditors so qualified to vote, to form a committee of inspection for the purpose of superintending the administration by the trustee of the bankrupt's property :
4. They may, by resolution, give directions as to the manner in which the property is to be administered by the trustee, and it shall be the duty of the trustee to conform to such directions, unless the Court for some just cause otherwise orders.

13. The property of the bankrupt divisible amongst his creditors, and in this Ordinance referred to as the property of the bankrupt, shall not comprise the following particulars:—

Descriptions
of bankrupt's
property
divisible
amongst
creditors.

- (1.) Property held by the bankrupt on trust for any other person :
- (2.) The tools (if any) of his trade, and the necessary wearing apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding twenty pounds in the whole :

But it shall include the following particulars :

- (3.) All such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him during its continuance :
- (4.) The capacity to exercise and take proceedings for exercising all such powers in or over or in

respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or during its continuance :

- (5.) All goods and chattels being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, being a trader, by the consent and permission of the true owner, of which goods and chattels the bankrupt is reputed owner, or of which he has taken upon himself the sale or disposition as owner ; provided that things in action, other than debts due to him in the course of his trade or business, shall not be deemed goods and chattels within the meaning of this clause.

Regulations
as to first
meeting of
creditors.

14. The general meeting of creditors to be summoned as aforesaid by the Court, and in this Ordinance referred to as the first meeting of creditors, shall be held in the prescribed manner and subject to the prescribed regulations as to the quorum, adjournment of meeting, and all other matters relating to the conduct of the meeting or the proceedings thereat.

Provided that,

1. The meeting shall be presided over by the Registrar, or in the event of his being unable to attend though illness or any unavoidable cause, by such chairman as the meeting may elect :
2. A person shall not be entitled to vote as a creditor unless at or previously to the meeting he has in the prescribed manner proved a debt provable under the bankruptcy to be due to him :
3. A creditor shall not vote at the said meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained :
4. A secured creditor shall, for the purpose of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security : and the amount of such balance shall, until the security be realised, be determined in the prescribed manner. He may, however, at or previously to the meeting of

creditors, give up the security to the trustee, and thereupon he shall rank as a creditor in respect of the whole sum due to him :

5. A "secured creditor" shall in this Ordinance mean any creditor holding any mortgage, charge or lien on the bankrupt's estate, or any part thereof, as security for a debt due to him :
6. Votes may be given either personally or by proxy :
7. An ordinary resolution shall be decided by a majority in value of the creditors present personally or by proxy at the meeting and voting on such resolution :
8. A special resolution shall be decided by a majority in number, and three-fourths in value, of the creditors present personally or by proxy at the meeting and voting on such resolution.

15. Until a trustee is appointed the Registrar shall be the trustee for the purposes of this Ordinance, and immediately upon the order of adjudication being made the property of the bankrupt shall vest in the Registrar. On the appointment of a trustee the property shall forthwith pass to and vest in the trustee appointed.

Devolution of property of trustee.

The expression "trustee," when used in this Ordinance, shall include the person for the time being filling the office of trustee, whether he be the Registrar or not ; but when the Registrar holds the office of trustee he shall, unless the Court otherwise orders, in the administration of the property of the bankrupt, apply to the Court for directions as to the mode of administering such property, and shall not take possession thereof unless directed by the Court.

16. The appointment of a trustee shall be reported to the Court, and the Court, upon being satisfied that the requisite security has been entered into by him, shall give a certificate declaring him to be trustee of the bankruptcy named in the certificate, and such certificate shall be conclusive evidence of the appointment of the trustee, and such appointment shall date from the date of the certificate. When the Registrar holds the office of trustee, or when the trustee is changed, a like certificate of the Court may be made declaring the person therein named to be trustee, and such certificate shall be conclusive evidence of the person therein named being trustee.

Evidence of appointment of trustee.

*Registration of appointment—
Vide Ord. No. 96 Sec. 5.*

PART II.

ADMINISTRATION OF PROPERTY.

General Provisions affecting Administration of Property.

Conduct of
bankrupt.

17. The bankrupt shall, to the utmost of his power, aid in the realisation of his property and the distribution of the proceeds amongst his creditors. He shall produce a statement of his affairs to the first meeting of creditors, and shall be publicly examined thereon on a day to be named by the Court, and subject to such adjourned public examination as the Court may direct. He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by rules of Court, or be directed by the Court by any special order or orders made in reference to any particular bankruptcy, or made on the occasion of any special application by the trustee or any creditor.

If the bankrupt wilfully fail to perform the duties imposed on him by this section, or if he fail to deliver up possession to the trustee of any part of his property which is divisible amongst his creditors under this Ordinance, and which may for the time being be in the possession or under the control of such bankrupt, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

Conduct of
trustee, and
appeal to
Court against
trustee.

18. The trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection, and any directions so given by the creditors at any general meeting shall be deemed to override any directions given by the committee of inspection; the trustee shall call a meeting of the committee of inspection once at least every three months, when they shall audit his accounts, and determine whether any or what dividend is to be paid; he may also call special meetings of the said committee as he thinks necessary.

Subject to the provisions of this Ordinance, and to such directions as aforesaid, the trustee shall exercise his own discretion in the management of the estate and its distribution amongst the creditors. The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes; he may also apply to the Court in manner prescribed, for directions in relation to any particular matter arising under the bankruptcy.

The bankrupt, or any creditor, debtor or other person aggrieved by any act of the trustee, may apply to the Court, and the Court may confirm, reverse or modify the act complained of, and make such order in the premises as it thinks just. The Court may from time to time, during the continuance of a bankruptcy, summon general meetings of the creditors for the purpose of ascertaining their wishes, and may, if the Court thinks fit, direct the Registrar to preside at such meetings.

The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position in all respects as if he were a Receiver of such property appointed by the Supreme Court, and the Court may, on his application, enforce such acquisition or retention of property accordingly.

19. The provisions of this Ordinance with respect to the first general meeting of creditors shall apply to any subsequent general meeting of creditors in a bankruptcy, with this exception, that subsequent meetings of creditors may be summoned by the trustee, or by a member of the committee of inspection, and that such meetings may, unless otherwise directed by the Court in the case of meetings summoned by the Court, be presided over by any person chosen by the creditors assembled at such meeting, and that any creditor whose debt has been proved, or the value of whose debt has been ascertained at or subsequently to such first meeting, shall be allowed to be present and to vote thereat.

Regulations as to general meetings of creditors subsequent to first meeting.

Dealings with Bankrupt's Property.

20. Where any portion of the property of the bankrupt consists of stock, debentures, shares in ships, shares, or any other property transferable in the books of any company, office or person, the right to transfer such property shall be absolutely vested in the trustee to the same extent as the

Possession of property by trustee.

bankrupt might have exercised the same if he had not become bankrupt.

Where any portion of the property of the bankrupt consists of things in action, any action, suit or other proceeding for the recovery of such things instituted by the trustee shall be instituted in his official name, as in this Ordinance provided; and such things shall, for the purpose of such action, suit or other proceeding, be deemed to be assignable in law, and to have been duly assigned to the trustee in his official capacity.

The trustee shall, as soon as may be, take possession of the deeds, books and documents of the bankrupt, and all other property capable of manual delivery. The trustee shall keep, in such manner as rules of Court shall direct, proper books, in which he shall from time to time make or cause to be made entries or minutes of proceedings at meetings, and of such other matters as rules of Court shall direct, and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent, inspect such books.

Disclaimer as
to onerous
property.

21. When any property of the bankrupt acquired by the trustee under this Ordinance consists of land of any tenure burdened with onerous covenants, of unmarketable shares in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding he has endeavoured to sell, or has taken possession of such property or exercised any act of ownership in relation thereto, may, by writing under his hand, disclaim such property, and upon the execution of such disclaimer the property disclaimed shall, if the same is a contract, be deemed to be determined from the date of the order of adjudication, and if the same is a lease be deemed to have been surrendered on the same date, and if the same be shares in any company be deemed to be forfeited from that date, and if any other species of property it shall revert to the person entitled on the determination of the estate or interest of the bankrupt, but if there shall be no person in existence so entitled, then in no case shall any estate or interest therein remain in the bankrupt. Any person interested in any disclaimed property may apply to the Court, and the Court may, upon such application, order

possession of the disclaimed property to be delivered up to him, or make such other order as to the possession thereof as may be just.

Any person injured by the operation of this section shall be deemed a creditor of the bankrupt to the extent of such injury, and may accordingly prove the same as a debt under the bankruptcy.

22. The trustee shall not be entitled to disclaim any property in pursuance of this Ordinance in cases where an application in writing has been made to him by any person interested in such property, requiring such trustee to decide whether he will disclaim or not, and the trustee has for a period of not less than twenty-eight days after the receipt of such application, or such further time as may be allowed by the Court, declined or neglected to give notice whether he disclaims the same or not.

*Limitation of
time for
disclaimer.*

23. Subject to the provisions of this Ordinance, the trustee shall have power to do the following things:

*Power of
trustee to deal
with property.*

- (1.) To receive and decide upon proof of debts in the prescribed manner, and for such purpose to administer oaths:
- (2.) To carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same:
- (3.) To bring or defend any action, suit, or other legal proceeding relating to the property of the bankrupt:
- (4.) To deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with the same:
- (5.) To exercise any powers the capacity to exercise which is vested in him under this Ordinance, and to execute all powers of attorney, deeds and other instruments expedient or necessary for the purpose of carrying into effect the provisions of this Ordinance:
- (6.) To sell all the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt) by public auction or private contract, with power,

if he thinks fit, to transfer the whole thereof to any person or company, or to sell the same in parcels:

- (7.) With the permission of the Court to lease all or any part of the property of the bankrupt:
- (8.) To give receipts for any money received by him, which receipts shall effectually discharge the person paying such moneys from all responsibility in respect of the application thereof:
- (9.) To prove, rank, claim, and draw a dividend in the matter of the bankruptcy of any debtor of the bankrupt.

Power to allow
bankrupt to
manage
property.

24. The trustee may appoint the bankrupt himself to superintend the management of the property or of any part thereof, or to carry on the trade of the bankrupt (if any) for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the creditors direct.

Trustee may
compromise,
&c.

25. The trustee may, with the sanction of the committee of inspection, do all or any of the following things:

- (1.) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts:
- (2.) Refer any dispute to arbitration, compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any debtor or person who may have incurred any liability to the bankrupt, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon:
- (3.) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors in respect of any debts provable under the bankruptcy:
- (4.) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person:

- (5.) To divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot advantageously be realised by sale.

The sanction given for the purposes of this section may be a general permission to do all or any of the above-mentioned things, or a permission to do all or any of them in any specified case or cases.

26. The trustee may, with the sanction of a special resolution of the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, accept any composition offered by the bankrupt, or assent to any general scheme of settlement of the affairs of the bankrupt upon such terms as may be thought expedient, and with or without a condition that the order of adjudication is to be annulled, subject nevertheless to the approval of the Court to be testified by a Judge of the Court signing the instrument containing the terms of such composition or scheme or embodying such terms in an order of the Court.

Trustee may accept composition or general scheme of arrangement.

Where the annulling the order of adjudication is made a condition of any composition with the bankrupt or of any general scheme for the liquidation of his affairs, the Court if it approves of such composition or general scheme, shall annul the adjudication on an application made by or on behalf of any person interested, and the adjudication shall be annulled from and after the date of the order annulling the same.

The provisions of any composition or general scheme made in pursuance of this Ordinance may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of the order of the Court made on such motion shall be deemed to be a contempt of Court. The approval of the Court shall be conclusive as to the validity of any such composition or scheme, and it shall be binding on all the creditors so far as relates to any debts due to them and provable under the bankruptcy.

27. A trustee shall not, without the consent of the committee of inspection, employ a solicitor or other agent, but where the trustee is himself a solicitor he may contract to be paid a certain sum by way of percentage or otherwise as

Trustee, if a solicitor, may be paid for services.

a remuneration for his services as trustee, including all professional services, and any such contract shall, notwithstanding any law to the contrary, be lawful.

Trustee to pay
moneys into
bank.

28. The trustee shall pay all sums from time to time received by him into such bank as the majority of the creditors in number and value at any general meeting shall appoint, and failing such appointment into the Court; and if he at any time keep in his hands any sum exceeding fifty pounds for more than ten days he shall be subject to the following liabilities; that is to say,

- (1.) He shall pay interest at the rate of twenty pounds per centum per annum on the excess of such sum above fifty pounds as he may retain in his hands:
- (2.) Unless he can prove to the satisfaction of the Court that his reason for retaining the money was sufficient, he shall, on the application of any creditor, be dismissed from his office by the Court, and shall have no claim for remuneration, and shall be liable to any expenses to which the creditors may be put by or in consequence of his dismissal.

Payment of Debts and Distribution of Assets.

Description of
debts
provable in
bankruptcy.

29. Demands in the nature of unliquidated damages arising otherwise than by reason of a contract or promise shall not be provable in bankruptcy, and no person having notice of any act of bankruptcy available for adjudication against the bankrupt shall prove for any debt or liability contracted by the bankrupt subsequently to the date of his so having notice.

Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the bankrupt is subject at the date of the order of adjudication, or to which he may become subject during the continuance of the bankruptcy by reason of any obligation incurred previously to the date of the order of adjudication, shall be deemed to be debts provable in bankruptcy, and may be proved in the prescribed manner before the trustee in the bankruptcy.

An estimate shall be made according to the rules of the Court from time being in force, so far as the same may be applicable, and where they are not applicable at the

discretion of the trustee, of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court, and the Court may, if it think the value of the debt or liability incapable of being fairly estimated, make an order to that effect, and upon such order being made such debt or liability shall, for the purposes of this Ordinance, be deemed to be a debt not provable in bankruptcy, but if the Court think that the value of the debt or liability is capable of being fairly estimated it may direct such value to be assessed if all the parties interested consent before the Court itself without the intervention of a jury, or if such parties do not consent, by a jury, and the amount of such value when assessed shall be provable as a debt under the bankruptcy.

“Liability” shall for the purposes of this Ordinance include any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money’s worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether such breach does or does not occur, or is or is not likely to occur or capable of occurring before the close of the bankruptcy, and generally it shall include any express or implied engagement, agreement or undertaking, to pay, or capable of resulting in the payment of money or money’s worth, whether such payment be as respects amount fixed or unliquidated, as respects time present or future, certain or dependent on any one contingency or on two or more contingencies, as to mode of valuation capable of being ascertained by fixed rules, or assessable only by a jury, or as matter of opinion.

30. The debts hereinafter mentioned shall be paid in priority to all other debts. Between themselves such debts shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves; that is to say,

Preferential
debts.

- (1.) All Ward or other local rates due from him at the date of the order of adjudication, and having become due and payable within twelve months next before such time; all assessed taxes, and

property or income tax assessed on him up to the thirty-first day of March next before the date of the order of adjudication, and not exceeding in the whole one year's assessment:

- (2.) All wages or salary of any clerk or servant in the employment of the bankrupt at the date of the order of adjudication, not exceeding three months' wages or salary, and not exceeding fifty pounds; all wages of any labourer or workman in the employment of the bankrupt at the date of the order of adjudication, and not exceeding three months' wages.

Save as aforesaid, all debts provable under the bankruptcy shall be paid *pari passu*.

Preferential
claim in case
of apprenticeship.

31. Where at the time of the presentation of the petition for adjudication any person is apprenticed or is an articulated clerk to the bankrupt, the order of adjudication shall, if either the bankrupt or apprentice or clerk give notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of such apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as such trustee, subject to an appeal to the Court, thinks reasonable out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

Where it appears expedient to a trustee, he may, on the application of any apprentice or articulated clerk to the bankrupt, or any person acting on behalf of such apprentice or articulated clerk, instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship or articles of agreement to some other person.

Landlord may
distrain for
rent.

32. The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this limitation: that if such distress

for rent be levied after the commencement of the bankruptcy it shall be available only for one year's rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the overplus due for which the distress may not have been available.

33. When any rent or other payment falls due at stated periods, and the order of adjudication is made at any time other than one of such periods, the person entitled to such rent or payment may prove for a proportionate part thereof up to the day of the adjudication as if such rent or payment grew due from day to day. Proof in case of rent and periodical payment.

34. Interest on any debt provable in bankruptcy may be allowed by the trustee under the same circumstances in which interest would have been allowable by a jury if an action had been brought for such debt. Interest on debts.

35. If any bankrupt is at the date of the order of adjudication liable in respect of distinct contracts as member of two or more distinct firms, or as a sole contractor and also as member of a firm, the circumstance that such firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of such contracts against the properties respectively liable upon such contracts. Proof in respect of distinct contracts.

36. The trustee, with the consent of the creditors testified by a resolution passed in general meeting, may from time to time during the continuance of the bankruptcy make such allowance as may be approved by the creditors to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate. Allowance to bankrupt for maintenance or service.

37. When there have been mutual credits, mutual debts, or other mutual dealings between the bankrupt and any other person proving or claiming to prove a debt under his bankruptcy, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set-off against any sum due from the other party, and the balance of such account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against Set-off.

the property of a bankrupt in any case where he had at the time of giving credit to the bankrupt notice of an act of bankruptcy committed by such bankrupt and available against him for adjudication.

Secured
creditors.

38. A creditor holding a specific security on the property of the bankrupt, or on any part thereof, may on giving up his security, prove for his whole debt.

He shall also be entitled to a dividend in respect of the balance due to him after realising or giving credit for the value of his security, in manner and at the time prescribed.

A creditor holding such security as aforesaid and not complying with the foregoing conditions shall be excluded from all share in any dividend.

Dividends.

Distribution of
dividends.

39. The trustee shall from time to time, when the committee of inspection determines, declare a dividend amongst the creditors who have proved to his satisfaction debts provable in bankruptcy, and shall distribute the same accordingly; and in the event of his not declaring a dividend for the space of six months, he shall summon a meeting of the creditors, and explain to them his reasons for not declaring the same.

Creditors
residing at a
distance, &c.

40. In the calculation and distribution of a dividend it shall be obligatory on the trustee to make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy, the subject of claims not yet determined.

Right of
creditor who
has not
proved debt
before
declaration of
a dividend.

41. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any moneys for the time being in the hand of the trustee any dividend or dividends he may have failed to receive before such moneys are made applicable to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

42. When the trustee has converted into money all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realised without needlessly protracting the bankruptcy, he shall declare a final dividend, and give notice of the time at which it will be distributed.

43. The bankrupt shall be entitled to any surplus remaining after payment of his creditors, and of the costs, charges and expenses of the bankruptcy.

44. No action or suit for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order the trustee to pay the same, and also to pay out of his own moneys interest thereon for the time that it is withheld, and the costs of the application.

Close of Bankruptcy.

45. When the whole property of the bankrupt has been realised for the benefit of his creditors, or so much thereof as can, in the joint opinion of the trustee and committee of inspection, be realised without needlessly protracting the bankruptcy, or a composition or arrangement has been completed, the trustee shall make a report accordingly to the Court, and the Court, if satisfied that the whole of the property of the bankrupt has been realised for the benefit of his creditors, or so much thereof as can be realised without needlessly protracting the bankruptcy, or that a composition or arrangement has been completed, shall make an order that the bankruptcy has closed, and the bankruptcy shall be deemed to have closed at and after the date of such order.

A copy of the order closing the bankruptcy may be published in the *Royal Gazette*, and the production of a copy of such *Gazette* containing a copy of the order shall be conclusive evidence of the order having been made and of the date and contents thereof.

Discharge of Bankrupt.

46. When a bankruptcy is closed, or at any time during its continuance, with the assent of the creditors testified by a special resolution, the bankrupt may apply to the Court for an order of discharge; but such discharge shall not be granted unless it is proved to the Court that one of the

following conditions has been fulfilled, that is to say, either that a dividend of not less than ten shillings in the pound has been paid out of his property, or might have been paid except through the negligence or fraud of the trustee, or that a special resolution of his creditors has been passed to the effect that his bankruptcy or the failure to pay ten shillings in the pound has, in their opinion, arisen from circumstances for which the bankrupt cannot justly be held responsible, and that they desire that an order of discharge should be granted to him; and the Court may suspend for such time as it deems to be just, or withhold altogether, the order of discharge in the circumstances following: namely, if it appears to the Court on the representation of the creditors made by special resolution, of the truth of which representation the Court is satisfied, or by other sufficient evidence, that the bankrupt has made default in giving up to his creditors the property which he is required by this Ordinance to give up; or that a prosecution has been commenced against him in pursuance of the provisions relating to the punishment of fraudulent debtors, contained in the Fraudulent Debtors' Ordinance, in respect of any offence alleged to have been committed by him against the said last-mentioned Ordinance.

No. 52.

Effect of order
of discharge.

47. An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or breach of trust, nor from any debt or liability whereof he has obtained forbearance by any fraud, but it shall release the bankrupt from all other debts provable under the bankruptcy, with the exception of—

(1.) Debts due to the Crown:—

(2.) Debts with which the bankrupt stands charged at the suit of the Crown or of any person for any offence against a statute or Ordinance relating to any branch of the public revenue, or at the suit of the Marshal or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence:

And he shall not be discharged from such excepted debts unless the Governor certify in writing his consent to his being discharged therefrom.

An order of discharge shall be sufficient evidence of the bankruptcy, and of the validity of the proceedings

thereon, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by such order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Ordinance and the special matter in evidence.

48. The order of discharge shall not release any person who, at the date of the order of adjudication, was a partner with the bankrupt, or was jointly bound or had made any joint contract with him. Exception of joint debtors.

Release of Trustee.

49. When the bankruptcy is closed the trustee shall call a meeting of the creditors to consider an application to be made to the Court for his release. At the meeting the trustee shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any, and of the property, if any, outstanding, and shall inform the meeting that he proposes to apply to the Court for a release. Release of trustee.

The creditors assembled at the meeting may express their opinion as to the conduct of the trustee, and they, or any of them, may appear before the Court and oppose the release of the trustee.

The Court, after hearing what, if anything, can be urged against the release of the trustee, shall grant or withhold the release accordingly, and if it withhold the release shall make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty, and shall suspend his release until such charging order has been complied with, and the Court thinks just to grant the release of the trustee.

50. Unclaimed dividends, and any other moneys arising from the property of the bankrupt, remaining under the control of the trustee at the close of the bankruptcy of any bankrupt, or accruing thereafter, shall be accounted and paid over to such account as may be directed by the rules of Court to be made with the sanction of the Governor; and any parties entitled thereto may claim the same in manner directed by such rules. The trustee shall also deliver a list of any outstanding property of the bankrupt to the Duty of trustee as to unclaimed dividends and outstanding property.

prescribed persons and the same shall when practicable be got in and applied for the benefit of the creditors in manner prescribed.

Effect of
release of
trustee.

51. The order of the Court releasing the trustee of a bankruptcy shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee of such bankrupt; but such order may be revoked by the Court on proof that it was obtained by fraud.

Status of undischarged Bankrupt.

Status of
undischarged
bankrupt.

52. Where a person who has been made bankrupt has not obtained his discharge, then, from and after the close of his bankruptcy, the following consequences shall ensue:

- (1.) No portion of a debt provable under the bankruptcy shall be enforced against the property of the person so made bankrupt until the expiration of three years from the close of the bankruptcy; and during that time, if he pay to his creditors such additional sum as will, with the dividend paid out of his property during the bankruptcy, make up ten shillings in the pound, he shall be entitled to an order of discharge in the same manner as if a dividend of ten shillings in the pound had originally been paid out of his property:
- (2.) At the expiration of a period of three years from the close of the bankruptcy, if the debtor made bankrupt has not obtained an order of discharge, any balance remaining unpaid in respect of any debt proved in such bankruptcy (but without interest in the meantime) shall be deemed to be a subsisting debt in the nature of a judgment debt, and, subject to the rights of any persons who have become creditors of the debtor since the close of his bankruptcy, may be enforced against any property of the debtor, with the sanction of the Court, but to the extent only, and at the time and in manner directed by the Court, and after giving such notice and doing such acts as may be prescribed in that behalf.

Audit.

53. The trustee having had his quarterly statements of accounts audited by the committee of inspection, shall, within the prescribed time, forward the certified statement in the prescribed form to the Registrar, and if he fail to do so he shall be deemed guilty of a contempt of Court to be punishable accordingly.

Trustee to send accounts, duly audited, to Registrar.

54. Every trustee of a bankrupt shall from time to time, as may be prescribed, and not less than once in every year during the bankruptcy, transmit to the Registrar a statement showing the proceedings in such bankruptcy up to the date of the statement containing the prescribed particulars, and made out in the prescribed form; and any trustee failing to transmit accounts in compliance with this section shall be deemed guilty of a contempt of Court, and be punishable accordingly.

Return of accounts to Registrar.

55. The Registrar shall examine the statements transmitted to him, and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on such statements, and may require the trustee to make good any loss the estate of the bankrupt may have sustained by such misfeasance, neglect, or omission. If the trustee fail to comply with such requisition, the Registrar may report the same to the Court; and the Court, after hearing the explanation, if any, of the trustee, shall make such order in the premises as it thinks just.

Duty of Registrar in regard to accounts.

56. The Registrar may at any time require any trustee to answer any inquiry made by him in relation to any bankruptcy in which such trustee is engaged, and may, if he thinks fit, apply to the Court to examine on oath such trustee or any other person concerning such bankruptcy; he may also direct a local investigation to be made of the books and vouchers of the trustees.

Powers of Registrar.

PART III.

POWERS OF COURT.

57. Subject to the provisions of this Ordinance, the Court shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, arising in any case of bankruptcy coming within the cognizance of such Court or which the Court may deem it

Powers of Supreme Court sitting in Bankruptcy.

expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case; and if in any proceeding in bankruptcy there arises any question of fact which the parties desire to be tried before a jury instead of by the Court itself, or which the Court thinks ought to be tried by a jury, the Court may direct such trial to be had, and such trial may be had accordingly, in the same manner as if it were the trial of an issue in the Supreme Court.

General Rules.

Rules of Court. 58. The Judges of the Supreme Court may from time to time make and may from time to time revoke and alter, general rules, in this Ordinance described as Rules of Court, for the effectual execution of this Ordinance and of the objects thereof and the regulation of the practice and procedure of bankruptcy petitions and the proceedings thereon.

Any general rules made as aforesaid may prescribe regulations as to the service of bankruptcy petitions, including provisions for substituted service; as to the valuing of any debts provable in a bankruptcy; as to the valuation of securities held by creditors; as to the giving or withholding interest or discount on or in respect of debts or dividends; as to the funds out of which costs are to be paid, the order of payment, and the amount and taxation thereof; and as to any other matter or thing, whether similar or not to those above enumerated, in respect to which it may be expedient to make rules for carrying into effect the objects of this Ordinance; and any rules so made shall be deemed to be within the powers conferred by this Ordinance, and shall be of the same force as if they were enacted in the body of this Ordinance.

Any rules made in pursuance of this section shall be laid before the Legislative Council within six weeks after they are made.

Scale of fees. 59. The Judges of the Supreme Court shall, with the sanction of the Governor, from time to time prescribe a scale of fees to be charged for any business done by the Court or any officer thereof under this Ordinance, and such fees shall be paid into the Treasury for the use of His Majesty.

PART IV.

SUPPLEMENTAL PROVISIONS.

Proceedings.

60. The following regulations shall be made with respect to proceedings in bankruptcy, namely :—

Supplemental
regulations as
to proceedings
in bankruptcy.

- (1.) Every bankruptcy petition shall be accompanied by an affidavit of the petitioner in the prescribed form, verifying the statements contained in such petition :
- (2.) Where two or more bankruptcy petitions are presented against the same debtor or against debtors being members of the same partnership, the Court may consolidate the proceedings, or any of them, upon such terms as the Court thinks fit :
- (3.) Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Ordinance in the case of a petitioning creditor :
- (4.) A corporation may prove a debt, vote, and otherwise act in bankruptcy, by an agent duly authorized under the seal of the corporation :
- (5.) A creditor may, in the prescribed manner, by instrument in writing, appoint a person to represent him in all matters relating to any debtor or his affairs in which a creditor is concerned in pursuance of this Ordinance, and such representative shall thereupon, for all the purposes of this Ordinance, stand in the same position as the creditor who appointed him :
- (6.) When a debtor who has been adjudicated a bankrupt dies, the Court may order that the proceedings in the matter be continued as if he were alive :
- (7.) The Court may at any time, on proof to its satisfaction that proceedings in bankruptcy ought to be stayed, by reason that negotiations are pending for the liquidation of the affairs of the bankrupt by arrangement or for the acceptance of a composition by the creditors in pursuance

of the provisions hereinafter contained, or on proof to its satisfaction of any other sufficient reason for staying the same, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

Consequences
of annulling of
adjudication.

61. Whenever any adjudication in bankruptcy is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done by the trustee or any person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged a bankrupt shall in such case vest in such person as the Court may appoint, or in default of any such appointment revert to the bankrupt for all his estate or interest therein, upon such terms and subject to such conditions, if any, as the Court may declare by order. A copy of the order of the Court annulling the adjudication of a debtor as a bankrupt shall be forthwith published in the *Royal Gazette*, and the production of a copy of the *Gazette* containing such order shall be conclusive evidence of the fact of the adjudication having been annulled, and of the terms of the order annulling the same.

Formal defects
in proceedings.

62. No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to such proceeding is of opinion that substantial injustice has been caused by such defect or irregularity, and that such injustice cannot be remedied by any order of such Court.

Trustees and Committee of Inspection.

Regulations as
to trustees, &c.

63. The following regulations shall be made with respect to the trustee and committee of inspection :—

(1.) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and where more than one are appointed they shall declare whether any act required or authorised to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Ordinance included under the term "trustee" and shall be joint tenants of the property of the bankrupt. The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee :

(2.) If any vacancy occur in the office of trustee by death, resignation, or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustees, if there be more than one, or by the Registrar on the requisition of any creditor :

(3.) If, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the Registrar shall act as such trustee :

(4.) The Court may, upon cause shown, remove any trustee. The creditors may, by special resolution at a meeting specially called for that purpose, of which seven days' notice has been given, remove the trustee and appoint another person to fill his office, and the Court shall give a certificate declaring him to be the trustee :

(5.) If a trustee be adjudged bankrupt, he shall cease to be trustee, and the Registrar shall, if there be no other trustee, call a meeting of creditors for the appointment of another trustee in his place :

(6.) The property of the bankrupt shall pass from trustee to trustee, including under that term the Registrar when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever :

(7.) The trustee of a bankrupt may sue and be sued by the official name of "the trustee of the property of a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding upon himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office :

(8.) The certificate of appointment of a trustee shall, for all purposes of any Ordinance requiring registration or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered and recorded accordingly.

(9.) Any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee :

(10.) The creditors may by resolution fix the quorum required to be present at a meeting of the committee of inspection :

(11.) Any member of the committee of inspection may also be removed by a special resolution at any meeting of creditors of which the prescribed notice has been given, stating the object of the meeting :

(12.) On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation, or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy.

(13.) The continuing members of the committee of inspection may act, notwithstanding any vacancy in their body; and where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it does not exceed five :

(14.) No defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act *bona fide* done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members of the committee of inspection :

(15.) If a member of the committee of inspection become a bankrupt his office shall thereupon become vacant :

(16.) Where there is no committee of inspection, any act or thing or any direction or consent by this Ordinance authorised or required to be done or given by such committee may be done or given by the Court on the application of the trustee.

Court may on failure of creditors appoint trustee.

64. The Registrar may adjourn the first meeting of creditors from time to time and from place to place, subject to the directions of the Court; but if, at such first meeting of creditors or at some adjournment thereof, no trustee is appointed by reason of the prescribed quorum not being present, or for any other reason whatever, the Court may annul the adjudication, unless it deems it expedient to carry on the bankruptcy with the aid of the Registrar as trustee. Moreover, if at any time during the bankruptcy no new trustee is appointed to fill a vacancy in that office, the Court may either carry on the bankruptcy with the aid of the Registrar as trustee or annul the order of adjudication as it thinks just.

Power over Bankrupt.

65. The Court upon the application of the trustee may from time to time order that, for such time as the Court thinks fit, not exceeding three months from the date of the order of adjudication, post letters addressed to the bankrupt shall be re-directed, sent or delivered by the Postmaster-General or the officers acting under him, in such manner as the Court or any Judge thereof may direct, and the same shall be done accordingly.

Post letters
addressed to
bankrupt.

66. The Court may, by warrant addressed to the Marshal cause a debtor to be arrested, and any books, papers, moneys, goods and chattels in his possession to be seized, and him and them to be safely kept as prescribed until such time as the Court may order under the following circumstances :

Arrest of
bankrupt.

- (1.) If after a debtor's summons has been granted and before a petition of bankruptcy can be presented, or if after a petition of bankruptcy is presented there is probable reason for believing that the debtor is about to go abroad or to quit his place of residence with a view of avoiding the payment of the debt for which the summons has been granted, or of avoiding service of the petition or appearing to the petition or examination in respect of his affairs, or otherwise avoiding, delaying or embarrassing proceedings in bankruptcy: Provided always that no arrest after a debtor's summons shall have been granted shall be valid or protected unless the debtor before or at the time of his arrest shall be served with the debtor's summons, and that no payment or composition of a debt made, or security for the same given, shall be exempted from the provisions of this Ordinance relating to fraudulent preferences :
- (2.) If, after a petition in bankruptcy has been presented against such debtor, it appear to the Court that there is probable cause for believing that he is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee, or that there is probable ground for believing that he has concealed or is about to

conceal or destroy any of his goods or chattels, or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy:

- (3.) If, after the service of the petition on such debtor, or after an adjudication in bankruptcy against him, he remove any goods or chattels in his possession above the value of five pounds, without the leave of the trustee, or if, without good cause shown, he fails to attend any examination ordered by the Court.

Property devolving on Trustee.

Proceeds of
sale and
seizure of
goods.

67. Where the goods of any trader have been taken in execution in respect of a judgment for a sum of fifty pounds or upwards and sold, the Marshal shall retain the proceeds of such sale in his hands for a period of fourteen days, and upon notice being served on him within that period of a bankruptcy petition having being presented against such trader, shall hold the proceeds of such sale, after deducting expenses, on trust to pay the same to the trustee; but if no notice of such petition having been presented be served on him within such period of fourteen days, or if, such notice having been served, the trader against whom the petition has been presented is not adjudged a bankrupt on such petition, or on any other petition of which the Marshal has notice, he may deal with the proceeds of such sale in the same manner as he would have done had no notice of the presentation of a bankrupt petition been served on him.

Civil servants
and
pensioners.

68. Where a bankrupt is in the civil service of the Crown, or is in the enjoyment of any pension payable from the Colonial Treasury, the trustee during the bankruptcy, and the Registrar after the close of the bankruptcy shall receive for distribution amongst the creditors so much of the bankrupt's salary, emolument or pension, as the Court, upon the application of the trustee thinks just and reasonable, to be paid in such manner and at such times as the Court with the consent in writing of the Governor directs.

Appropriation
of portion of
salary to
creditors.

69. Where a bankrupt is in the receipt of a salary or income other than as aforesaid, the Court upon the application of the trustee shall from time to time make such order as it thinks just for the payment of such salary or

income or of any part thereof to the trustee during the bankruptcy, and to the Registrar if necessary after the close of the bankruptcy, to be applied by him in such manner as the Court may direct.

70. Any settlement of property made by a trader not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of such settlement, be void as against the trustee of the bankrupt appointed under this Ordinance, and shall, if the settlor becomes bankrupt at any subsequent time within five years after the date of such settlement, unless the parties claiming under such settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in such settlement, be void against such trustee. Any covenant or contract made by a trader in consideration of marriage for the future settlement upon or for his wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property of or in right of his wife, shall, upon his becoming bankrupt before such property or money has been actually transferred or paid pursuant to such contract or covenant, be void against his trustee appointed under this Ordinance.

Avoidance of
voluntary
settlements.

“Settlement” shall for the purposes of this section include any conveyance or transfer of property.

71. Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own moneys in favour of any creditor or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors shall, if the person making, taking, paying or suffering the same become bankrupt within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee of the bankrupt appointed under this Ordinance; but this section shall not affect the rights

Avoidance of
fraudulent
preferences.

of a purchaser, payee, or incumbrancer in good faith and for valuable consideration.

Payment of
money by
agents to
trustee.

72. Any treasurer or other officer, or any banker, attorney or agent of a bankrupt, shall pay and deliver to the trustee all moneys and securities in his possession or power, as such officer or agent, if he be not by law entitled to retain as against the bankrupt or the trustee: if he do not he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

Protection of
certain
transactions
with bankrupt.

73. Nothing in this Ordinance contained shall render invalid—

- (1.) Any payment made in good faith and for value received to any bankrupt before the date of the order of adjudication by a person not having at the time of such payment notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.
- (2.) Any payment or delivery of money or goods belonging to a bankrupt, made to such bankrupt by a depository of such money or goods before the date of the order of adjudication, who had not at the time of such payment or delivery notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:
- (3.) Any contract or dealing with any bankrupt, made in good faith and for valuable consideration, before the date of the order of adjudication, by a person not having, at the time of making such contract or dealing, notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

Protection of
certain
transactions
by or in
relation to
property of
bankrupt.

74. Subject and without prejudice to the provisions of this Ordinance relating to the proceeds of the sale and seizure of goods of a trader, and to the provisions of this Ordinance avoiding certain settlements, and avoiding, on the ground of their constituting fraudulent preferences, certain conveyances, charges, payments and judicial proceedings, the following transactions by and in relation to the property of a bankrupt shall be valid, notwithstanding any prior act of bankruptcy—

- (1.) Any disposition or contract with respect to the

disposition of property by conveyance, transfer, charge, delivery of goods, payment of money, or otherwise howsoever made by any bankrupt in good faith and for valuable consideration, before the date of the order of adjudication, with any person not having at the time of the making of such disposition of property notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:

- (2.) Any execution against the land of the bankrupt, executed in good faith by seizure before the date of the order of adjudication, if the person on whose account such execution was issued had not at the time of the same being so executed notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:
- (3.) Any execution or attachment against the goods of any bankrupt, executed in good faith by seizure and sale before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being executed by seizure and sale notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

Discovery of Bankrupt's Property.

75. The Court may, on the application of the trustee, at any time after an order of adjudication has been made against a bankrupt, summon before it the bankrupt or his wife, or any person whatever known or suspected to have in his possession any of the estate or effects belonging to the bankrupt, or supposed to be indebted to the bankrupt, or any person whom the Court may deem capable of giving information respecting the bankrupt, his trade dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the bankrupt, his dealings or property; and if any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce such documents, having no lawful impediment made known to the Court at the time of its

Court may
summon
persons
suspected of
having
property of
bankrupt.

sitting and allowed by it, the Court may, by warrant addressed as aforesaid, cause such person to be apprehended and brought up for examination.

Examination
of parties.

76. The Court may examine upon oath, either by word of mouth or by written interrogatories, any person so brought before it in manner aforesaid concerning the bankrupt, his dealings or property.

Order for
payment of
amount
admitted on
examination.

77. If any person on examination before the Court admit he is indebted to the bankrupt, the Court may, on the application of the trustee, order him to pay to the trustee, at such time and in such manner as the Court deems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

Seizure of
property of
bankrupt.

78. Any person acting under warrant of the Court may seize any property of the bankrupt divisible amongst his creditors under this Ordinance, and in the bankrupt's custody or possession, or in that of any other person, and with a view to such seizure may break open any house, building or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search warrant to any constable or prescribed officer of the Court, who may execute the same according to the tenor thereof.

Joint and Separate Estates.

Petition
against one
partner.

79. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present such petition against one or more partners of such firm without including the others.

Dismissal
petition
against some
respondents
only.

80. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

Property of
partners to be
vested in same
trustee.

81. Where one member of a partnership has been adjudicated a bankrupt, and any other petition for adjudication shall be afterwards filed against a member of the same

partnership, the property of such last-mentioned member shall, unless the Court otherwise directs, vest in the trustee appointed in respect of the property of the first-mentioned member of the partnership, and the Court may give such directions for amalgamating the proceedings in respect of the properties of the members of the same partnership as it thinks just.

82. If one partner of a firm is adjudged a bankrupt, any creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat, but shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts. Joint creditor may prove for purpose of voting.

83. Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property. Joint and separate dividends.

84. Where a member of a partnership is adjudged bankrupt, the Court may authorise the trustee, with consent of the creditors, certified by a special resolution, to commence and prosecute any action or suit in the name of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action or suit relates shall be void; but notice of the application for authority to commence the action or suit shall be given to such partner, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or suit, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs. Suits by trustee and bankrupt's partners.

Evidence.

85. The Registrar, or any other person presiding at a meeting of creditors under this Ordinance shall cause minutes to be kept and duly entered into a book of all resolutions and proceedings of such meeting, and any such Evidence of proceedings at meeting of creditors.

minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had shall be received as evidence in all legal proceedings, and until the contrary is proved, every general meeting of the creditors in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had.

Evidence of
proceedings in
bankruptcy.

86. Any petition or copy of a petition in bankruptcy, any order or copy of an order made by the Court, any certificate or copy of a certificate made by the Court, any deed or copy of a deed of arrangement in bankruptcy, and any other instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings or other proceedings had under this Ordinance, may, if any such instrument as aforesaid or copy of an instrument appears to be sealed with the seal of the Court, or purports to be signed by any Judge of the Court, be received in evidence in all legal proceedings whatever.

Death of
witness.

87. In case of the death of the bankrupt or his wife, or of a witness whose evidence has been received by the Court in any proceeding under this Ordinance, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Miscellaneous.

Power of
assignee to
sue.

88. Any person to whom any thing in action belonging to the bankrupt is assigned in pursuance of this Ordinance, may bring or defend any action or suit relating to such thing in action in his own name.

Saving as to
joint
contracts.

89. Where a bankrupt is a contractor in respect of any contract jointly with any other person or persons, such person or persons may sue or be sued in respect of such contract, without the joinder of the bankrupt.

Computation
of time.

90. Where by this Ordinance any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of such limited time the same shall be taken as exclusive of the day of such date, or of the happening of such event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done

or taken at latest on the last day of such limited time according to such computation, unless such last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or Corpus Christi or a day appointed for public fast, humiliation, or thanksgiving, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Where by this Ordinance any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, such act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

91. Where any dividends remain unclaimed for five years then and in every such case the same shall be deemed vested in the Crown, and shall be disposed of as the Governor may direct; provided that at any time after such vesting the Court may, by reason of the disability or absence beyond seas of the person entitled to the sum so vested, or for any other reason appearing to them sufficient, direct that the sum shall be repaid to the person entitled to the same, and thereupon the same may be paid to such person from the Colonial Treasury, upon the warrant of the Governor.

Forfeiture of dividends after five years' nonclaim.

92. Where a bankrupt is a trustee within the Trustee Ordinance, the Court may appoint a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears to the Court expedient to do so, and all provisions of that Ordinance, and of any other Ordinance relative thereto, shall have effect accordingly.

Removal of bankrupt from trusteeship.

PART V.

LIQUIDATION BY ARRANGEMENT.

93. The following regulations shall be made with respect to the liquidation by arrangement of the affairs of the debtor:—

Regulations as to liquidation by arrangement.

(1.) A debtor unable to pay his debts may summon a general meeting of his creditors, and such meeting may, by a special resolution as defined by this Ordinance, declare that the affairs of the debtor are to be liquidated by

arrangement and not in bankruptcy, and may at that or some subsequent meeting held at an interval of not more than a week, appoint a trustee, with or without a committee of inspection :

(2.) All the provisions of this Ordinance relating to a first meeting of creditors, and to subsequent meetings of creditors in the case of a bankruptcy, including the description of creditors entitled to vote at such meetings, and the debts in respect of which they are entitled to vote, shall apply respectively to the first meeting of creditors, and to subsequent meetings of creditors, for the purposes of this section, subject to the following modifications :

- (a.) That every such meeting shall be presided over by such chairman as the meeting may elect; and
- (b.) That no creditor shall be entitled to vote until he has proved by a statutory declaration a debt provable in bankruptcy to be due to him, and the amount of such debt, with any prescribed particulars; and any person wilfully making a false declaration in relation to such debt shall be guilty of a misdemeanour.

(3.) The debtor, unless prevented by sickness or other cause satisfactory to such meeting, shall be present at the meeting at which the special resolution is passed, and shall answer any inquiries made of him, and he, or if he is so prevented from being at such meeting some one on his behalf, shall produce to the meeting a statement showing the whole of his assets and debts, and the names and addresses of the creditors to whom his debts are due :

(4.) The special resolution, together with the statement of the assets and debts of the debtor, and the name of the trustee appointed, and of the members, if any, of the committee of inspection, shall be presented to the Registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, but if satisfied that it was so passed, and that a trustee has been appointed with or without a committee of inspection, he shall forthwith register the resolution and the statement of the assets and debts of the debtor, and such resolution and statement shall be open for inspection on the prescribed conditions, and the liquidation by arrangement shall be deemed to have commenced as from the date of the appointment of the trustee :

(5.) All such property of the debtor as would, if he were made bankrupt, be divisible amongst his creditors shall, from and after the date of the appointment of a trustee, vest in such trustee under a liquidation by arrangement, and be divisible amongst the creditors, and all such settlements, conveyances, transfers, charges, payments, obligations and proceedings as would be void against the trustee in the case of a bankruptcy shall be void against the trustee in the case of a liquidation by arrangement :

(6.) The certificate of the Registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the Court to the like effect in the case of a bankruptcy :

(7.) The trustee under a liquidation shall have the same powers and perform the same duties as a trustee under bankruptcy, and the property of the debtor shall be distributed in the same manner as in a bankruptcy ; and with the modification hereinafter mentioned all the provisions of this Ordinance shall, so far as the same are applicable, apply to the case of a liquidation by arrangement in the same manner as if the word "bankrupt" included a debtor whose affairs are under liquidation, and the word "bankruptcy" included liquidation by arrangement ; and in construing such provisions the appointment of a trustee under a liquidation shall, according to circumstances, be deemed to be equivalent to and a substitute for the presentation of a petition in bankruptcy, or the service of such petition or an order of adjudication in bankruptcy :

(8.) The creditors at their first or any general meeting may prescribe the bank into which the trustee is to pay any moneys received by him, and the sum which he may retain in his hands :

(9.) The provisions of this Ordinance with respect to the close of the bankruptcy, discharge of a bankrupt, release of the trustee, and the audit of accounts shall not apply in the case of a debtor whose affairs are under liquidation by arrangement ; but the close of the liquidation may be fixed, and the discharge of the debtor and the release of the trustee may be granted by a special resolution of the creditors in general meeting, and the accounts may be audited in pursuance of such resolution, at such time and in such manner, and upon such terms and conditions as the creditors think fit ;

(10.) The trustee shall report to the Registrar the discharge of the debtor, and a certificate of such discharge given by the Registrar shall have the same effect as an order of discharge given to a bankrupt under this Ordinance :

(11.) Rules of Court may be made in relation to proceedings on the occasion of liquidation by arrangement in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy :

(12.) If it appear to the Court on satisfactory evidence that the liquidation by arrangement cannot in consequence of legal difficulties, or of there being no trustee for the time being, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly :

(13.) Where no committee of inspection is appointed the trustee may act on his own discretion in cases where he would otherwise have been bound to refer to such committee :

(14.) In calculating a majority on a special resolution for the purposes of this section, creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value, but not in the majority in number.

PART VI.

COMPOSITION WITH CREDITORS.

Regulations.

Regulations as
to composition
by creditors.

94. (a.) The creditors of a debtor unable to pay his debts may, without any proceedings in bankruptcy, by an extraordinary resolution, resolve that a composition shall be accepted in satisfaction of the debts due to them from the debtor.

(b.) An extraordinary resolution of creditors shall be a resolution which has been passed by a majority in number and three-fourths in value of the creditors of the debtor, assembled at a general meeting to be held in the manner prescribed, of which notice has been given in the prescribed manner, and has been confirmed by a majority in number and value of the creditors assembled at a subsequent general meeting, of which notice has been given in the prescribed manner, and held at an interval of not less than seven days nor more than fourteen days from the date of the meeting at which such resolution was first passed.

(c.) In calculating a majority for the purposes of a composition under this section, creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value, but not in the majority in number, and the value of the debts of secured creditors shall, as nearly as circumstances admit, be estimated in the same way, and the same description of creditors shall be entitled to vote at such general meetings as in bankruptcy.

(d.) The debtor, unless prevented by sickness or other cause satisfactory to such meetings, shall be present at both the meetings at which the extraordinary resolution is passed, and shall answer any enquiries made of him, and he, or if he is so prevented from being at such meetings, some one on his behalf shall produce to the meetings a statement showing the whole of his assets and debts, and the names and addresses of the creditors to whom such debts respectively are due.

(e.) The extraordinary resolution, together with the statement of the debtor as to his assets and debts, shall be presented to the Registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, and if satisfied that it has been so passed he shall forthwith register the resolution and statement of assets and debts, but until such registration has taken place such resolution shall be of no validity : and any creditor of the debtor may inspect such statement at prescribed times, and on payment of such fee, if any, as may be prescribed.

(f.) The creditors may, by an extraordinary resolution, add to or vary the provisions of any composition previously accepted by them, without prejudice to any persons taking interest under such provisions who do not assent to such addition or variation ; and any such extraordinary resolution shall be presented to the Registrar in the same manner and with the same consequences as the extraordinary resolution by which the composition was accepted in the first instance.

(g.) The provisions of a composition accepted by an extraordinary resolution in pursuance of this section shall be binding on all the creditors whose names and addresses, and the amount of the debts due to whom, are shown in the statement of the debtor, produced to the meetings at which the resolution has passed, but shall not affect or prejudice the rights of any other creditors.

(h.) When a debt arises on a bill of exchange or promissory note, if the debtor is ignorant of the holder of any such bill of exchange or promissory note he shall be required to state the amount of such bill or note, the date on which it falls due, the name of the acceptor or person to whom it is payable, and any other particulars within his knowledge respecting the same, and the insertion of such particulars shall be deemed a sufficient description of the creditor of the debtor in respect of such debt, and any mistake made inadvertently by a debtor in the statement of his debts may be corrected after the prescribed notice has been given, with the consent of a general meeting of his creditors.

(i.) The provisions of any composition made in pursuance of this section may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of the order of the Court made on such motion shall be deemed to be a contempt of Court.

(j.) Rules of Court may be made in relation to proceedings on the occasion of the acceptance of a composition by an extraordinary resolution of creditors in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy.

(k.) If it appear to the Court on satisfactory evidence that a composition under this section cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly.

Registration
of resolutions
of creditors
conclusive in
certain cases.

95. The registration by the Registrar of a special resolution of the creditors on the occasion of a liquidation by arrangement under Part V of this Ordinance, or of an extraordinary resolution of the creditors on the occasion of a composition under Part VI of this Ordinance, shall, in the absence of fraud, be conclusive evidence that such resolutions respectively were duly passed and all the requisitions of this Ordinance in respect of such resolutions complied with.

SCHEDULE.

DESCRIPTION OF TRADE.

Alum-makers, apothecaries, auctioneers, bankers, bleachers, brokers, brickmakers, builders, calenderers, carpenters, carriers, cattle or sheep-salesmen, coach-proprietors, cow-keepers, distillers, dyers, fullers, keepers of inns, taverns, hotels or coffee houses, lime-burners, liverystable keepers, market-gardeners, millers, packers, printers, share-brokers, shipowners, shipwrights, stock-brokers, stock-jobbers, sugar manufacturers, victuallers, warehousemen, wharfingers, persons using the trade or profession of a scrivener, receiving other men's moneys or estates into their trust or custody, persons insuring ships or their freight or other matter against perils of the sea, persons using the trade of merchandise by way of bargaining, exchange, bartering, commission, consignment or otherwise, in gross or by retail, and persons who, either for themselves or as agents or factors for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the workmanship or the conversion of goods or commodities; but a farmer, grazier, common labourer or workman for hire, shall not, nor shall a member of any partnership, association or company which cannot be adjudged bankrupt under this Ordinance, be deemed as such a trader for the purposes of this Ordinance.

No. 52.

AN ORDINANCE for the punishment of Fraudulent Debtors.

Short title. 1. This Ordinance may be cited as the Fraudulent Debtor's Ordinance.

Interpretation. 2. Words and expressions defined or explained in the Bankruptcy Ordinance shall have the same meaning in this Ordinance.

Punishment of fraudulent debtors. 3. Any person adjudged bankrupt, and any person whose affairs are liquidated by arrangement in pursuance of the Bankruptcy Ordinance shall, in each of the cases following, be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned for any time not exceeding two years, with or without hard labour; that is to say:—

(1.) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee administering his estate for the benefit of his creditors all his property, real and personal, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expense of his family, unless the jury is satisfied that he had no intent to defraud:

(2.) If he does not deliver up to such trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless the jury is satisfied that he had no intent to defraud:

(3.) If he does not deliver up to such trustee, or as he directs, all books, documents, papers and writings in his custody or under his control relating to his property or affairs, unless the jury is satisfied that he had no intent to defraud:

(4.) If, being a trader and having debts to the amount of five hundred pounds sterling, or upwards, he has not kept books of account so as to enable the trustee to obtain a full and correct knowledge of his affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs, or otherwise to defraud:

(5.) If, after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he conceals any part of his property to the value of ten pounds or upwards, or conceals any debt due to or from him, unless the jury is satisfied that he had no intent to defraud :

(6.) If, after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he fraudulently removes any part of his property of the value of ten pounds or upwards :

(7.) If he makes any material omission in any statement relating to his affairs, unless the jury is satisfied that he had no intent to defraud :

(8.) If, knowing or believing that a false debt has been proved by any person under the bankruptcy or liquidation, he fail for the period of a month to inform such trustee as aforesaid thereof :

(9.) If, after the presentation of a bankruptcy petition against him or the commencement of the liquidation, he prevents the production of any book, document, paper or writing affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs, or to defeat the law :

(10.) If, after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he conceals, destroys, mutilates or falsifies or is privy to the concealment, destruction, mutilation, or falsification of any book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law :

(11.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law :

(12.) If, after the presentation against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he fraudulently parts with, alters, or makes any omission, or is privy to the fraudulently parting with, altering, or making any omission in any document affecting or relating to his property or affairs :

(13.) If, after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or at any meeting of his creditors within four months next before such presentation or commencement, he attempts to account for any part of his property by fictitious losses or expenses :

(14.) If, within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same :

(15.) If, within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless the jury is satisfied that he had no intent to defraud :

(16.) If within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he being a trader, pawns, pledges, or disposes of, otherwise than in the ordinary way of his trade, any property which he has obtained on credit and has not paid for, unless the jury is satisfied that he had no intent to defraud :

(17.) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs, or his bankruptcy or liquidation.

Absconding with property. 4. If any person who is adjudged a bankrupt or has his affairs liquidated by arrangement after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months before such presentation or commencement, quits the Colony and takes with him, or makes preparation for quitting the Colony and for taking with him any part of his property to the amount of twenty

pounds or upwards, which ought by law to be divided amongst his creditors, he shall, unless the jury is satisfied that he had no intent to defraud, be guilty of felony, punishable with imprisonment for a time not exceeding two years, with or without hard labour.

5. Any person shall in each of the cases following be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned for any time not exceeding one year, with or without hard labour; that is to say:—

Fraudulently
obtaining
credit, &c.

- (1.) If in incurring any debt or liability he has obtained credit under false pretences, or by means of any other fraud:
- (2.) If he has, with intent to defraud his creditors, or any of them, made or caused to be made any gift, delivery or transfer of or any charge on his property:
- (3.) If he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.

6. If any creditor in any bankruptcy or liquidation by arrangement or composition with creditors in pursuance of the Bankruptcy Ordinance wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account which is untrue in any material particular, he shall be guilty of a misdemeanour, punishable with imprisonment not exceeding one year with or without hard labour.

Making false
claim, &c.

7. Where a debtor makes any arrangement or composition with his creditors under the provisions of the Bankruptcy Ordinance he shall remain liable for the unpaid balance of any debt which he incurred or increased, or whereof before the date of the arrangement or composition he obtained forbearance by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends.

Debts incurred
by fraud.

8. Where a trustee in any bankruptcy reports to the Court that in his opinion a bankrupt has been guilty of any offence under this Ordinance, or where the Court is satisfied upon the representation of any creditor or member

Order for
prosecution
on report of
trustee.

of the committee of inspection that there is ground to believe that the bankrupt has been guilty of any offence under this Ordinance, the Court shall, if it appears to the Court that there is a reasonable probability that the bankrupt may be convicted, order the trustee to prosecute the bankrupt for such offence.

**Expenses of
prosecutions.**

9. Where the prosecution of the bankrupt under this Ordinance is ordered by the Court, then, on the production of the order of the Court, the expenses of the prosecution shall be certified by the Registrar of the Supreme Court, and allowed by the Judge who tries the case, and shall be paid by the Receiver-General out of the general revenue of the Colony.

**Form of
indictment.**

10. In an indictment for an offence under this Ordinance it shall be sufficient to set forth the substance of the offence charged in the words of this Ordinance specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading adjudication, or any proceedings in, or order, warrant or document of the Court acting under the Bankruptcy Ordinance.

**Punishments
under this
Ordinance
cumulative.**

11. Where any person is liable under any other Ordinance or at common law to any punishment or penalty for any offence made punishable by this Ordinance, such person may be proceeded against under such other Ordinance, or at common law, or under this Ordinance, so that he be not punished twice for the same offence.

No. 53.

AN ORDINANCE to amend the Indictable Offences (Magistrates' Procedure) Ordinance. (No. 2).

1. This Ordinance shall be read as one with Ordinance No. 2. Construction.

2. Section 21 of Ordinance No. 2 is repealed.

Repeal.

3. (a.)—The provisions empowering adjournment and proceedings thereon including bail contained in sections 51, 115 and 117 of Ordinance No. 1 shall be applicable to any adjournment of the hearing of any information or complaint against any person charged on an information or complaint with any indictable offence whatever other than treason, murder or piracy in the same manner as if such person were a defendant within the meaning of the said section 51. Bail on adjournment.

(b.)—A Stipendiary or other Justice committing for trial at the Criminal Sessions any person on a charge of any indictable offence shall if such offence be not a felony and may if it be a felony other than as aforesaid admit such person to bail. Bail on committal.

Provided however that the Court shall not in any case of felony suffer the defendant to go at large without his entering into a recognizance with surety for his appearance in such sum as the Court shall think adequate. Provided also that nothing herein contained shall be deemed in any way to limit the power of the Judges of the Supreme Court to bail in all cases under the provisions of section 88 of Ordinance No. 13.

4. No discretionary power of granting bail shall be exercised by the Stipendiary or other Justice in favour of any person who has been twice previously convicted of felony, whether summarily or on indictment. Previous conviction.

5. In place of issuing a warrant it shall be lawful for a Justice or Stipendiary Justice of the Peace in any case where a person is charged with an indictable offence, when he shall deem it proper so to do, to issue a summons as provided in and by section 31 of Ordinance No. 1: and in such case the provisions of the said section 31 and of sections 32 and 33 of the said Ordinance shall apply to the proceedings on such information. Summons in the first instance.

Witnesses.

6. Notwithstanding the provisions of section 7 of Ordinance No. 2 it shall be lawful for any Justice or Stipendiary Justice of the Peace taking the examination of witnesses, in any case in which a person is charged with an indictable offence, to require or permit any witnesses in support of the charge or attending to give evidence for the accused to be present during the whole or any part of the examination of any other of the witnesses, if such Justice shall deem it necessary or conducive to the ends of justice so to do.

**Informations
and
complaints.**

7. All informations or complaints in indictable cases shall be in writing and signed by the person making the same, but in cases in which the Justice or Stipendiary Justice shall issue a summons in the first instance instead of a warrant, it shall not be necessary that the information or complaint shall be upon oath.

**Defects in
form.**

8. No objection shall be allowed to any information or complaint, summons or warrant for an indictable offence for any alleged defect therein in substance or in form or for any variance between it and the evidence adduced in support of the prosecution charge or complaint on the preliminary examination.

No. 54.

[Vide Amending Ordinance No. 298]

AN ORDINANCE relating to Petty Civil Courts.

1. This Ordinance may be cited as the Petty Civil Short title.
Courts Ordinance.

2. The following words shall in this Ordinance and all Interpre-
Rules hereunder, if not inconsistent with the context, bear tation.
the following meanings respectively, namely:—

“Court” means a Petty Civil Court under this Ordinance:

“District” means the district in and for which such Court is held:

“Judge” means the Judge of such Court or person lawfully acting as such Judge:

“Clerk” means the Clerk of such Court or person lawfully acting as such Clerk; and includes Assistant Clerk:

“Bailiff” means in the Port-of-Spain district the Marshal and his assistants; and elsewhere the Bailiff of the district and his assistants:

“Action” means any proceeding commenced by the issue of a summons out of a Court:

“Proceeding” means any other proceeding in a Court:

“Process” includes summons, notice, execution, summons under the Debtors Ordinance, and any other step in *No. 37.*
any action or founded on any judgment in an action:

“Prescribed” means prescribed by the rules made hereunder for the time being in force; and where no such rule applies, then shall mean according to the practice and forms heretofore in use in the Courts heretofore holden in the said respective districts:

“Clear days” means that in all cases in which any particular number of days is prescribed for the doing of any act, or for any other purpose, the same is to be reckoned exclusive both of the first and of the last day:

“Foreign Court” means the Court of a district into which process is issued from another Court:

“Foreign District” means a district other than the district from the Court of which the process is issued:

"Home Court" means the Court from which process is originally issued :

"Judgment" means the final decision of the Court in any action :

"Party" means party to an action or a person served with notice of or in any action, and includes a body politic or corporate :

"Return-day" means the day appointed in any summons or proceeding for the appearance of the defendant or any other day fixed for the trial of any action or matter :

"Rules of Court" includes forms :

"Trial" means the hearing of any action in Court :

Districts. 3. The several Petty Civil Courts heretofore held shall, subject as herein is provided, continue to be held under the provisions hereof; and it shall be lawful for the Governor by proclamation from time to time to divide the Colony, or any part thereof, into districts and to order that a Court shall be held in each or any of such districts, and also to appoint or change the place of holding of any such Court, or to consolidate any two or more of such districts, or to order that the holding of any such Court be discontinued, and also to declare by what name and at what place each such Court shall be held.

Port-of-Spain Court. 4. Subject to the powers of the Governor by proclamation otherwise to appoint, a Court shall be held in Port-of-Spain for that part of the County of St. George lying to the Westward of the district of the Court of St. Joseph; and such Court may, subject as aforesaid, continue to be designated the Port-of-Spain District Court.

Sittings. 5. The Courts shall hold public sittings at such places and on such days as the Governor may from time to time by proclamation appoint, and until otherwise so appointed at the places and times at which the same Courts respectively have hitherto been held. **Adjournment.** Provided that it shall be lawful for the Judge from time to time at his discretion to adjourn any Court to any day or hour that he may deem convenient.

Vacation. There shall be no sitting of the Port-of-Spain District Court in the month of September, and the Judge of any other Court may adjourn over September if he shall think fit.

6. The offices of the Courts shall be open daily, except Office hours. Sunday, Christmas Day, New Year's Day, Good Friday and the day thereafter, Easter Monday and Tuesday, Whit-Monday, and any other public holiday, from the hour of Holidays. 10 a.m. to 4 p.m. for the granting of summonses, issuing of writs of execution and for all other necessary business of the Court.

7. The Puisne Judges of the Supreme Court shall be Judges. Judges of the Port-of-Spain District Court, and except in Port-of-Spain the Stipendiary Justices of the Peace shall be Judges of the Courts in their respective districts.

8.—(a.) The Clerks of the Port-of-Spain District Court Clerks and Bailiffs. and the several Clerks of the Peace and their assistants acting as clerks of the several other Courts existing at the commencement hereof, shall continue to act as clerks under the provisions hereof, and the Marshal and his assistants in Port-of-Spain and the several Bailiffs in other districts shall continue to be Bailiffs of such Courts respectively.

(b.) Every clerk and bailiff to be hereafter appointed Security. shall on appointment and before entering on the duties of his office give sufficient security to an amount to be approved by the Governor for the due accounting for all money received by him and for the performance of his duties.

9. It shall be lawful for the Governor from time to time Deputies. to appoint a deputy or deputies to discharge the duties of any Judge, clerk or bailiff in case of illness or absence or for other reason; Provided that the deputy for a Judge shall be a Barrister-at-Law or a Solicitor of ten years standing.

10. All Courts shall have jurisdiction to try any action Jurisdiction. (save as by this Ordinance hereinafter excepted) in which the sum claimed shall not exceed the sum of £10.

Provided that no Court shall in any action give judgment otherwise than for a stated sum as debt or damages and costs as the case may be, or for the defendant or for the striking out of the action as the case may be; and no equitable relief or remedy, nor any judgment or order in the nature of a mandamus or injunction shall be granted by such Court.

Exceptions
from
jurisdiction.

11. No action shall be brought in a Court in respect of any of the following causes of action, that is to say: replevin, any claim to recover possession or establish any title to or interest in land of or in which the title to any corporeal or incorporeal hereditaments (save as hereinafter otherwise provided) is in question, or in which the validity of any devise bequest or limitation under any will or settlement may be disputed, or any action for seduction, breach of promise of marriage, criminal conversation, libel or slander, slander of title or infringement of patent or merchandize mark or copyright, or in respect of any malicious prosecution or false imprisonment, or for any breach of statutory duty, or in respect of any action in which the validity or legality of anything done in the execution or discharge of any public office or employment or any liability or alleged liability arising from the holding of any such office or employment shall be in dispute. And if it shall be made to appear in the course of the hearing that any claim or any part thereof is in fact in respect of any of the causes of action in this section mentioned, then such claim or such part thereof, as the case may be, shall forthwith be struck out with or without costs as to the Judge shall seem just, such striking out not to be a bar to proceedings in the Supreme Court.

Cases involv-
ing title.

12. If in any action for damages for trespass to land it appears in the course of the hearing that for the purpose of decision it would be necessary for the Judge to decide a *bond fide* dispute as to title to land, the Judge shall unless both parties consent to his so deciding (which consent shall be entered on the proceedings and signed by both parties or their respective Solicitors or Counsel) strike out the action as in the last preceding section provided; but where it appears that the issues really in dispute between the parties do not involve such title, or where such consent has been entered the Judge may proceed to try the action.

Summary Conviction Offences (Procedure) Ordinance," or of *No. 1.* any other Ordinance conferring on a Stipendiary Justice in such Court the power to award payment or damages or compensation to the plaintiff in respect of any debt or claim whatsoever, the Judge shall, unless for good cause it appears to him otherwise just, strike out such action at the hearing, and such striking out shall be without prejudice to any right of the plaintiff to proceed before such Stipendiary Justice, if he shall be entitled to do so.

Provided that it shall not be deemed good cause for allowing such action to continue, that the time had gone by for commencing proceedings in the Court of summary jurisdiction at the commencement of the action.

14. The Court shall have and may exercise jurisdiction to hear and determine applications under the provisions of Section 4 of the Debtors Ordinance, in the following cases; *Judgment Summons. No. 37.* that is to say:—

- (a.) Where the claim of the judgment creditor arises out of a judgment of the Court itself, or
- (b.) Where the amount actually due, however or whenever the same may have arisen, does not exceed ten pounds, or is reduced by abandonment to ten pounds, and the debtor is resident within the district of the Court.

Provided that no summons under the said Ordinance shall issue for service out of the district without the leave of the Judge.

15. Any person may, subject to the provisions hereof, be sued in the Court of the District in which he resides or carries on business; and by leave of the Judge, but not otherwise, any person not resident within such District may be sued in the Court of such District in respect of any debt contracted by him within the District or for damages in respect of any wrongful act committed therein or in respect of any breach of any contract made or to be performed therein. *Jurisdiction as to defendants.*

16. Any person under the age of twenty-one years may *Infants.* prosecute any action under this Ordinance for any sum of money not greater than Ten Pounds which may be due to him for wages or piecework, or for work as a servant, in the same manner as if he were of full age: and any person above the age of fourteen and under the age of twenty-one

may be sued under this Ordinance for any debt not exceeding Ten Pounds contracted for necessities, in the same manner as if such person at the time of contracting such debt had been of full age, and the burden of establishing that the person contracting such debt was at the time of contracting the same under the age of fourteen years, shall be on the defendant setting up the same.

Trustees,
Executors,
&c.

17. Any trustee, executor or administrator may sue or be sued under this Ordinance in like manner as if he were a party in his own right, and judgment and execution shall be such as in the like case would be given or issued in the Supreme Court.

Partners.

18. Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and it shall be sufficient if any of such co-partners be served with process, and judgment may be obtained and execution issued against one or all the persons liable as such co-partners.

Married
Women and
Infants.

19. Subject to the provisions of Section 14 of the Married Women's Property Ordinance, married women may, with leave of the Judge, sue or defend without their husbands or without a next friend, on giving such security (if any) for costs as the Judge may require. Infants may sue as plaintiffs by their next friends, and may defend by their guardians, but nothing herein contained shall affect the right or liability of any infant to sue or be sued under Section 16 hereof.

Joinder of
plaintiffs.

20. All persons may be joined as plaintiffs in whom the right to any claim is alleged to exist, whether jointly or severally, or in the alternative. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled, for what he may be entitled to, without amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by improperly joining any person or persons, unless the Court, in disposing of the costs of the action, shall otherwise direct.

Joinder of
Defendants.

21. The plaintiff may, at his option, join as parties to the same action all or any of the parties severally, or jointly and severally, liable on any one contract, including parties to bills of exchange or promissory notes; and every such person against whom judgment shall have been obtained

under this Ordinance, and who shall have satisfied such judgment, shall be entitled to demand and recover contribution from any other person jointly liable with him.

22. All persons may be joined as defendants against whom the right to any claim is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment. Joinder of defendants.

23.—(a.) Subject to the provisions of this Ordinance and the rules hereunder a plaintiff may unite in the same action several causes of action, so however that the sum claimed in any action does not exceed £10; but if at any time it appears to the Judge that such causes of action cannot be conveniently tried and disposed of together, he may order separate trials, or may exclude any of such causes of action; and may order the proceedings to be amended accordingly, and may make such order as to costs as may be just. Joinder of causes.

(b.) Claims by or against husband and wife may be joined with claims by or against either of them separately. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant. Husband and wife.

24. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions; but any plaintiff having a cause of action for more than ten pounds may elect entirely to abandon the excess of his demand, and in such case judgment shall be in full discharge of all demands in respect of such cause of action, and entry of the judgment shall be made accordingly. Splitting causes.

25. Any demand not exceeding ten pounds which is claimed as the balance of a partnership account or the amount or part of the amount of a distributive share under an intestacy or of any legacy under a will may be sued for in an action. Partnership or Intestacy.

26. Where a sole plaintiff or defendant or one or more of several plaintiffs or defendants shall die before judgment, the action shall not abate if the cause of action survive or continue. Death of Parties.

When one or more of several plaintiffs or defendants shall die after judgment, proceedings thereon may be taken by the survivors or survivor or against the survivors or survivor, without leave of the Court.

- Applications.** 27. Save as otherwise expressly provided all applications respecting any action or proceeding shall be made in open Court to the Judge; and except where the Judge thinks fit to permit the same to be made *ex parte*, shall be made on notice to the party to be affected thereby: and the Judge shall have power to entertain and decide upon any application so made.
- Forms of proceedings.** 28. All summonses and other process shall be in the prescribed form, but no process which in the opinion of the Judge substantially contains the prescribed information, details and particulars shall be deemed invalid or insufficient by reason of any want of form or variation in form.
- Amendment of process.** 29. In the event of any process being in the opinion of the Judge insufficient or substantially defective it shall be lawful for the Judge in his discretion on such terms (if any) as to postponement, costs and otherwise as he shall think fit, to amend the same or to permit the party in default to amend the same.
- Provided that such power of amendment shall not be exercised where the Judge is of opinion that the omission or irregularity has been intentional, for purpose of delay evasion or deception, or otherwise not in good faith.
- Affidavits.** 30. All affidavits for use in a Court may be sworn either before a Commissioner of affidavits or before the Judge or before the Clerk, but not before an assistant to such Clerk. No fee shall be payable on an affidavit sworn to before the Judge or Clerk of the Court.
- General jurisdiction at trial.** 31. At the trial the Judge shall try the whole matter of the action and give judgment thereon, or make any order, or give any direction he may consider necessary to enable him to give a final judgment upon a day to which the trial may be adjourned, and also may make such order as to costs as he may think fit.
- Time for payment.** 32. The Judge at the hearing, or by consent of the parties, the Clerk in entering up judgment by confession or for non-appearance to a default summons under the rules, may make orders concerning the time or times, and by what instalments (if any) any debt or damages or costs for which judgment shall be obtained shall be paid, and all such moneys shall be paid into Court unless otherwise directed, and in case of default made in payment of such judgment
- Instalments.**

or of any such instalments, execution may issue against the person making such default in respect of the balance of the debt payable at the time of such default in all respects as if no order for payment by instalments had been made.

33. Every order and judgment of any Judge made under any of the provisions of this Ordinance shall, subject as in Section 35 hereof provided, and subject to the provisions of Section 32 of the Judicature Ordinance, be final and conclusive between the parties; but the Judge shall have power at his discretion to strike out the action with or without costs and without giving any other judgment thereon, in any case in which satisfactory proof shall not have been given to him entitling either the plaintiff or the defendant to judgment, but such striking out shall not be a bar to any fresh action. Judgment to be final.
No. 24.

34. Except as provided in and by Section 32 of the Judicature Ordinance, no action or proceeding in a Court under this Ordinance shall be removable into the Supreme Court by any writ or process. Certiorari.

35. The Judge shall have power, on application made on notice, in his discretion to set aside any judgment pronounced by him and grant a new trial of any action tried by him on any of the grounds on which the Supreme Court may grant a new trial of any action tried in such Court, and on such terms as to costs or security for costs, amendment, particulars, the payment of money into Court, and otherwise, as he shall deem just. And the Judge may, on sufficient cause, in his discretion at any time on application *ex parte* stay execution for such time as he shall think fit to permit of any notice being given or of any other application being made on notice. New trial.

36.—(a.) The defendant may by notice of special defence, or by special leave of the Judge on such terms as the Judge may think fit, at the day of hearing set up any special defence, or by way of counter-claim set-off and rely upon any debt or liquidated demand not exceeding £10 against the plaintiff's claim, and such set-off or counter-claim shall have the same effect as a cross-action, so as to enable the Court to pronounce final judgment upon the claim and cross claim. The Judge may at his discretion adjourn any hearing to admit of a claim and set-off or counter-claim being duly heard together, and may require the defendant Defence and counter-claim by defendant.

to deliver written particulars of any such alleged set-off or counter-claim. And if the original claim is stayed or discontinued or dismissed the defendant shall be at liberty either to withdraw any set-off or counter-claim preferred under the provisions hereof without prejudice to any further action by him in respect thereof, or to proceed with the trial of the same.

(b.) Except special leave has been given as above mentioned no evidence in support of any ground of defence or set-off to any claim whatever involving any allegation of fact beyond a denial of the facts necessary to entitle a plaintiff to judgment shall be admitted at the hearing of any action unless the prescribed notice of such defence or set-off has been given by the defendant in the prescribed manner.

(c.) A defendant shall not be at liberty for the purpose of a set-off or counter-claim to split any alleged debt or liquidated demand due to him from the Plaintiff of a greater sum than £10. But he may abandon any excess thereof over £10. But if the Defendant satisfies the Judge at the hearing that the Plaintiff is indebted to him in respect of a debt or liquidated demand in a sum greater than £10 it shall be lawful for the Judge in his discretion to stay execution on the judgment against the defendant for such time as he may deem sufficient to enable the defendant to take proceedings to recover such debt or liquidated demand from the Plaintiff in due course of law; or may, if the plaintiff proves his case, stay execution for such time as he may think fit to enable the defendant to proceed in like manner.

Appearance of parties and advocates.

37.—(a.) Any party may appear at the hearing to conduct his action in person or may be represented by a barrister or solicitor. No costs shall be granted in respect of any appearance or other services by a barrister in an action.

(b.) Any person may appear and conduct the case of his wife or child or servant being a member of his household.

But subject thereto no person not being a barrister or solicitor duly retained, shall be heard on behalf of any party to any action or other proceeding.

Summons to witnesses.

This section repealed by No. 298.

38. Summonses to witnesses to be served either in the home or in any foreign district, may be issued without leave, and may, by leave of the Judge, be served by the party applying for the same or by his Solicitor, or by some

person in the permanent and exclusive employment of the party or his Solicitor. It shall be sufficient if such summons be served a reasonable time before the return day.

Every person on whom any such summons shall have been so served, and who shall refuse or neglect, without sufficient cause, to appear, or to produce any books, papers or writings required by such summons to be produced, and also every person present in Court who shall be required to give evidence and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine not exceeding £5, as the Judge shall direct, and the whole or any part of such fine may, in the discretion of the Judge, be paid to the party injured by such refusal or neglect or to the Receiver-General for the use of the Colony.

39. The awarding of costs of actions tried in Court shall be in the discretion of the Judge; and the Judge may in his discretion award to the successful party such sums actually incurred in respect of the summoning and attendances of necessary witnesses as he may think just; but subject thereto the costs if awarded shall be computed by the clerk according to the prescribed scale. Costs.

40. In cases in which judgment is obtained by confession or for want of appearance or defence the costs shall be allowed as prescribed, and computed by the clerk and added to the amount of the judgment. The costs according to the prescribed scale shall be inclusive of all work done in obtaining the evidence of witnesses or taking proof of such evidence and preparing any notice, summons, particulars or other documents and in conducting any case before the Court. Costs on judgment by confession, &c.

41. The Bailiff of each District shall serve process and levy execution transmitted to him in the prescribed manner for service or levy within his district in any action commenced in any Court. Service of process.

42.—(a.) Execution shall be issued by the Clerk of the Court in which judgment has been obtained in the prescribed form to the Bailiff of the District within which execution is to be levied, and shall be executed in the first place against the personal chattels of the judgment debtor except the tools or implements of his trade to the value of £5, and if the bailiff makes return that he can find no sufficient chattels then against the lands of such debtor or a sufficient portion thereof. Execution.

Sale of goods
and lands
taken in
execution.

(b.) No goods which shall be taken in execution shall be sold until five days at the least next after the day on which such goods shall have been taken, and lands levied upon shall not be sold until after forty days at the least next after the day on which such lands shall have been levied upon, and such goods or lands shall be sold by public auction, and three days' notice at least of the intended sale of such goods and thirty days' notice at least of the intended sale of such lands, shall be given by affixing such notice in some conspicuous place in the office of the Court, and by also affixing such notice in some conspicuous place upon the lands to be sold; and all such sales shall be made for cash only.

Stay of
execution.

(c.) A Judge may by order suspend the issue or enforcement of execution in any case. And when order has been made under the provisions of Section 35 hereof to rehear a case such order shall operate as a stay of execution pending the rehearing, and when order has been made under the provisions of Section 32 hereof for the payment of any debt by instalments, such order shall operate as a stay of execution for such time as such instalments continue to be regularly paid under such order.

Conveyance of
lands.

43. The Judge on the application of the purchaser of any lands sold under the provisions of this Ordinance in execution shall grant a conveyance in the prescribed form of the lands so sold, and such conveyance shall be signed by the Judge in the presence of two witnesses, and such conveyance shall be and be deemed and taken to be a deed to all intents and purposes whatsoever, and when registered shall vest in such purchaser all the estate and interest whatsoever to which the person against whom the execution by virtue whereof the levy was made was issued was at the time of the said levy possessed of or entitled to, in to and out of such lands, freed and discharged from all estates, charges and incumbrances whatsoever created or accruing subsequently to such levy; and it shall not be necessary to acknowledge the execution of any such deed for the purpose of registering the same. Provided that in the case of such lands so sold in execution being lands under the Real Property Ordinance, the production to the Registrar of the writ of execution indorsed by the bailiff and of a certificate of the sale under the hands of the Clerk shall authorize the Registrar-General without the production of any deed to

No. 60.

enter the sale on the Real Property Register as an assurance to the purchaser.

44. The Court shall have power to order the attendance of a debtor for examination as to his property and as to debts owing to him and to order the attachment of debts due to any person who is a debtor under a judgment of the Court.

Debtor's
Summons.

Attachment.

45. For the purpose of exercising the powers in the last section conferred, the Judge shall have and exercise, to the extent in the last section provided, the powers for the time being exercisable by the Supreme Court or a Judge thereof in respect of discovery and attachment of debts according to the rules and orders of the Supreme Court relating to the attachment of debts, or so much of the same as is applicable to the Judge of the Petty Civil Court, and such rules and orders shall apply *mutatis mutandis* to all proceedings taken for the attachment of debts in a Petty Civil Court under the provisions hereof. Provided that no debt shall under the provisions of this section be attachable in any proceeding to a greater extent than is sufficient to satisfy the debt or damages and costs recoverable in such proceeding against the debtor.

Procedure in
attachment.

46. The Judge may refer any action to the arbitration of some person chosen or assented to by the parties, or may refer any question of account to the Clerk. The award of such arbitrator shall be deposited with the Clerk and upon reading such award the Judge shall give his judgment or make such order as he may deem fit, with or without costs, including the costs of such arbitrator.

Arbitration.

47. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of the Court or in respect of the value or proceeds thereof by any person, it shall be lawful for the Bailiff, as well before as after any action brought against him, to obtain a summons in the prescribed form without any fee for the same, calling before the said Court as well the party issuing such process as the party making such claim, and the Judge of such Court shall adjudicate upon such claim, and make such order between the parties in respect thereof and of the costs of the proceedings, as to him shall seem fit, and shall also adjudicate between such parties, or either of them, and the said Bailiff, with respect to any damage or claim or to damages arising or capable of arising out of the execution

Interpleader.

of such process by the said Bailiff, and make such order in respect thereof, and of the costs of the proceedings, as to him shall seem fit, and such orders shall be enforced in like manner as any order in any action brought in such Court, and shall be final and conclusive as between the parties and as between them or either of them, and the said Bailiff; and upon the issue of such summons, any action which shall have been brought in any Court in respect of such claim, or of any damage arising out of the execution of such process, shall be stayed.

Obstruction of officers.

48. If any Bailiff shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any goods levied under process of the Court, the person so offending shall be liable to a fine not exceeding five pounds, to be recovered by order of the Court or before a Stipendiary Justice as hereinafter provided, and it shall be lawful for the Bailiff or any Peace officer in any such case to take the offender into custody (with or without warrant) and bring him before the Court or Justice accordingly.

Misconduct of officers.

49. If the Bailiff or any Clerk or other officer of the Court, acting under or under colour or pretence of the process of the said Court, shall be charged with extortion or misconduct, or with any neglect of duty, or with not duly paying or accounting for any money levied by him under the authority of this Ordinance, it shall be lawful for the Judge to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and to make such order thereupon for the repayment of any money extorted or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs as he shall think just, and also, if he shall think fit, to impose such fines upon such Bailiff, Clerk, or other officer not exceeding five pounds for each offence, as he shall deem adequate.

Limitation of actions.

50. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Ordinance shall be commenced within four calendar months after the act committed, and not afterwards or otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action, and no plaintiff shall

recover in any such action if tender of sufficient amends shall have been made before such action brought, and if after action brought a sufficient sum of money shall have been paid into Court with costs by or on behalf of the defendant, the plaintiff shall be at liberty to take out of Court the money so paid less the amount of any costs properly incurred by the defendant subsequently to such payment; which amount shall be duly computed and paid out to the defendant.

51. If any person shall bring any suit in the Supreme Court in respect of any grievance committed by any Clerk, Bailiff or officer of any Court under or under colour or pretence of the process of the said Court, and the Jury upon the trial of the action shall not find greater damages for the plaintiff than the sum of ten pounds, no costs shall be awarded to the plaintiff in such action unless the Judge trying such action shall certify in Court upon the back of the record that the action was fit to be brought in the Supreme Court.

Actions
against officers
of Court.

52. If any action other than an action for damages for trespass to land be commenced in the Supreme Court which might have been entered and tried in any Court held under this Ordinance, the plaintiff may have judgment in such action for the amount recovered by him if successful, but without any costs; and if the defendant succeeds he shall be entitled to his costs as between solicitor and client, unless in either case the Judge before whom the action was tried shall certify on the back of the record that the said action was a fit and proper one to be brought in such Supreme Court.

Actions for
small debts in
Supreme
Court.

53. Payment of any fine, penalty or forfeiture imposed by any Judge under the authority of this Ordinance may be enforced upon the order of the Judge in like manner as payment of any debt adjudged in the Court, or the Judge may order the same to be paid forthwith, or in default of such payment may commit the offender to gaol for a period not exceeding one month, unless the said fine penalty or forfeiture be paid sooner.

Enforcement
of fines,
penalties, etc.

54. The Clerk in each district shall in the months of January, April, July and October in each year make out a correct list of all sums of money belonging to suitors in the Court which shall have been paid into Court, and which

List of
unclaimed
moneys.

shall have remained unclaimed for three months before the first day of the said months of January, April, July and October respectively, specifying the names of the parties for whom or on whose account the same was so paid into Court; and a copy of such list shall be put up and remain during business hours in some conspicuous part of the office of the Court; and all sums of money which shall have been paid into any such Court to the use of any suitor or suitors therein and which shall have remained unclaimed for the period of six months after the same shall have been so paid into Court, shall be paid into the Colonial Treasury, and shall, if unclaimed for the period of three years after the same shall have been so paid into the Colonial Treasury, be applicable as part of the general funds of the Colony and shall be carried to the account of such funds; and no person shall be entitled to claim any sum which shall have remained unclaimed for three years.

**Rules and
Forms.**

55. The practice of the Courts shall until the same is amended be regulated by the rules and forms contained in the Schedule hereto; and the Puisne Judges of the Supreme Court may from time to time make further or other rules varying amending regulating or adding to the same for regulating the practice and procedure of the Courts and for prescribing forms of summonses, notices, particulars and other process used therein and any matters relating thereto, or to the duties of the officers, or to the fees to be taken in respect of all proceedings, and the costs to be allowed to parties to such proceedings and otherwise for giving effect to this Ordinance. The fees charges and costs heretofore paid received and allowed shall continue and be allowed until amended by such rules.

**Approval of
Rules.**

56. Rules made under the provisions of the last preceding section shall not have any force or effect until they have been approved by the Governor and the Legislative Council, and when so approved shall have the same force and effect as if they were contained in this Ordinance: and such rules or any thereof may be disallowed by His Majesty in the same manner and with the same consequences as in the case of an Ordinance. Any such rules approved as aforesaid shall, subject to disallowance by His Majesty, come into operation on the day appointed in such rules in that behalf, or if no day is so appointed, then on such day as the Governor by Proclamation appoints.

Disallowance by His Majesty under this section shall take effect upon and from the day on which the Proclamation notifying the same is published in the *Royal Gazette*, but shall not affect any proceedings taken before such publication.

57. Any person not being a Solicitor of the Supreme Court or a clerk in the permanent employ of such Solicitor who shall prepare for reward any notice, summons, particulars or other process or documents in any action or for use in any Court held under this Ordinance shall be deemed guilty of an offence against this Ordinance and on conviction thereof before a Court of Summary Jurisdiction shall be liable to a penalty not exceeding forty shillings, with imprisonment in default not exceeding twenty-one days for the first offence, and not exceeding £10 or less than £3, with imprisonment in default with or without hard labour not exceeding fifty days for any subsequent such offence, and it shall be lawful for the Judge in his discretion, on its being made to appear in the course of any trial before him, that any person present in Court has been guilty of such offence, summarily to proceed to enquire into the guilt of such person, and if he shall convict such person to inflict such fine as aforesaid in the same manner as if he were sitting as a Stipendiary Justice in a Court of Summary Jurisdiction and such person had been duly summoned before him to answer such offence. Provided that a conviction or acquittal of any such person so dealt with shall be a bar to any subsequent proceedings against such person in respect of the same offence.

Unqualified
persons
preparing
documents,
etc., for
reward.

Restoration of Judgments lost or destroyed, *Vide* No. 281.

SCHEDULE.

RULES.

**Issue of
Summons.**

1. All actions shall be commenced by a summons in writing. Every summons shall be signed by the clerk and shall be issued according to the Form No. 1 to these Rules.

**Service of
Summons.**

2. The summons shall be served upon the defendant in the case of suits entered in the District Court of Port-of-Spain at least three clear days, and in the case of suits entered in other Petty Civil Courts at least eight clear days previous to and exclusive of the day named in such summons for the hearing of such plaintiff, and the delivery of such summons to the defendant in person or by leaving the same at the residence of such defendant with some person actually residing thereat shall be deemed good service, and no misnomer or inaccurate description of any person or place in any such summons shall avoid the same so that the person or place be therein described so as to be commonly known.

**Default
summons,
Port-of-Spain.**

3. In any suit for a debt or liquidated money demand entered in the District Court of Port-of-Spain the plaintiff may cause to be issued a summons, or (upon filing an affidavit to the effect set forth in Form No. 12 to these rules) a default summons in the form or to the effect given in Form No. 2 to these Rules; and if the defendant shall not, within ten clear days after service of such summons, give notice in writing, signed by himself or his Solicitor, to the Chief Clerk of the Court of his intention to defend, the plaintiff may, twelve clear days after and within two months from the day of service, upon proof of its service have judgment entered up against the defendant for the amount of his claim and costs.

The order upon such judgment shall be for payment forthwith, or at such time or times, and by such instalments, if any, as the plaintiff or his Solicitor shall in writing have consented to take as endorsed on the summons.

When the defendant shall have given notice of defence the Chief Clerk shall, immediately upon the receipt of such notice, inform the plaintiff or his Solicitor by post or otherwise of such notice, and shall notify to the plaintiff and defendant the day upon which he shall have fixed that the trial shall take place, at least three clear days before the day so fixed.

Where the defendant shall neglect to give such notice of defence, the Judge may, upon such defendant disclosing a defence upon the merits, and satisfactorily explaining his neglect, let in the defendant to defend upon such terms as he shall think just.

**Bills of
Exchange,
Port-of-Spain.**

4. In any suit on a bill of exchange or promissory note entered in the District Court of Port-of-Spain the plaintiff may at his option, cause to be issued an ordinary summons or a default summons in the Form No. 8 to these rules; and if the defendant shall not within ten clear days after service of the summons obtain on affidavit, leave from the Judge of the said Court to defend, the plaintiff may, upon proof of service of the said summons, have judgment entered up against the defendant for the amount of his claim and costs. The Judge granting such leave shall endorse the same on such summons.

The order upon such judgment shall be for payment forthwith, or at such time or times, and by such instalments if any, as the plaintiff or his Solicitor shall in writing have consented to take as endorsed on the summons.

Where a defendant has obtained leave to defend, the Chief Clerk shall immediately inform the plaintiff or his Solicitor by post or otherwise and shall notify the plaintiff and defendant the day upon which he shall have fixed that the trial shall take place, at least three clear days before the day so fixed.

Where the defendant shall neglect to obtain leave to defend, the Judge may, upon such defendant disclosing a defence upon the merits, and satisfactorily explaining his neglect, let in the defendant to defend upon such terms as he may think just.

5. All default Summonses issued under these Rules shall be personally served *Service of* within a period of six months from their date; and may be served in any district *Default* in which the Defendant may be met with, and for this purpose the provisions of *Summons.* Rule 10 shall apply for service in a foreign District.

Where personal service cannot be effected, and the Judge is satisfied on oath that reasonable efforts have been made to effect such service and that either the Summons has come to the knowledge of the Defendant, or that he wilfully evades service of the same, it shall be lawful for the Judge to order that the Plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as to the Judge may seem fit.

6. A default Summons issued under these Rules may, at the request of the *Exchange of* Plaintiff, be exchanged without fee for an ordinary Summons, upon the former *Default* being filed in Court within two months of its issue, and the fact of such exchange *Summons.* must be endorsed on such ordinary Summons by the Chief Clerk.

7. A Summons may issue in any District in which the Defendant or one of the *Where* Defendants dwells or carries on his business at the time such Summons is issued, *Summons to* or by leave of the Judge from the Court within the District in which the Defendant *issue.* or one of the Defendants shall have dwelt or carried on business at any time within three calendar months next before the issuing of such Summons, or within the district in which the cause of action wholly or in part arose. When the Defendant has no permanent residence or place of business in the Colony a Summons may issue from the Court within the District in which he temporarily resides or carries on business.

8. All Summonses or other processes or writs of Execution issued by the *Service of* District Court of Port-of Spain shall, except in cases herein specially provided for, *Process.* be served or executed within such district by the Marshal or his Assistants, and in other cases such Summonses or other process or Writs of Execution shall be served or executed by the Bailiff of the Court out of which the same shall have issued, subject in every such case to the provisions hereinafter set out for service or execution out of the district from which the same shall have been issued.

Service of Summonses, except in cases specially hereinafter provided for, may be either personal or by delivering the same to some person apparently not less than fourteen years of age, at the house or place of dwelling or place of business of the Defendant.

When an infant is a Defendant, service on such infant or on his father or guardian, or (if none) on the person with whom he resides or under whose care he is, shall be deemed good service.

Where persons are sued as partners, service upon any one or more of the partners, or at any place of the partnership business will be sufficient.

Where husband and wife are both Defendants, either may be served, unless the Judge shall otherwise order.

Where a Defendant is living or serving on board of any ship or vessel, it shall be sufficient service to deliver the Summons to the person on board, who is at the time of such service, apparently in charge of such ship or vessel.

Where a Defendant is employed or dwells in any Public Asylum or in any Gaol or is a prisoner in any Gaol, it shall be sufficient service to deliver the Summons to the Gatekeeper or Lodgekeeper of such Asylum or Gaol.

Where a Lunatic or person of unsound mind is a Defendant, service on the Committee (if any) of the Lunatic, or on the person with whom he resides or under whose care he is, shall, unless the Judge otherwise orders, be deemed good service on such Defendant.

Where a Defendant keeps his house or place of dwelling or place of business closed, in order to prevent service, it shall be sufficient service to affix such Summons on the door of such house or place of dwelling or place of business.

Where the Bailiff is prevented by violence or threats or other conduct of the Defendant, or of any other person, from personally serving a Summons, it shall be sufficient to leave such Summons as near to the Defendant as practicable.

Proof of service.

9. Service of any Summons or other process of Court may be proved by endorsement on a copy of the same under the hand and description of the person making such service, showing the day, place, time and mode of service, and every such endorsement shall be taken as *prima facie* evidence of the truth of the facts stated therein; and any person wilfully and corruptly endorsing any false statement on the copy of a Summons or other process or uttering or causing the same to be uttered, shall incur the penalties of wilful and corrupt perjury and shall be removed from his office or employment.

If not served within three months by the Marshal or Bailiff, such Summons or other process shall be returned by such Marshal or Bailiff, and the Chief Clerk shall forthwith give notice to the Plaintiff or to his Solicitor of such non-service or non-execution.

Service in foreign district.

10. Where any Summons or other process is required to be served or executed in a foreign district the Clerk shall transmit the same and a copy thereof forthwith by post to the Bailiff of the foreign Court, and thereupon such Bailiff shall be authorized and required to act in all respects in the service and execution of such Summons or other process within the jurisdiction of such foreign Court in the same manner, with the same powers, and subject to the same rules as if such foreign district were within the jurisdiction of the Court from which such Summons or other process originally issued.

And where such Summons or other process is returned to the Clerk of the home Court by the Bailiff of such foreign Court, not served or executed, the Clerk shall forthwith give notice to the Plaintiff or to his Solicitor of such non-service or non-execution.

Payment into Court.

11. The Defendant may at any time before the day of hearing pay to the Clerk of the Court such sum as he may be advised in full satisfaction of the Plaintiff's demand together with the costs incurred by the Plaintiff up to the time of payment and such sum shall be payable to the Plaintiff and if the Defendant has given notice to the Plaintiff or his Solicitor of such payment into Court and if the Plaintiff should elect to proceed and shall recover no further sum than shall have been so paid into Court, the Defendant shall be entitled to such sum as may be awarded to him by the Judge as costs against the Plaintiff.

Discontinuance.

12. The Plaintiff may at any time not less than two clear days before return-day discontinue his action by notice in conformity with form No. 8 to be personally served by him on the Defendant.

Entry of Judgment.

13. Whenever the Judge shall have made any order in any proceeding pending before him, the person in whose favour such order shall be made shall be entitled thereupon to enter up judgment immediately without any notice or Summons to the other party.

Time.

14. The Judge may in any case make order for granting time to the Plaintiff or Defendant to proceed in the prosecution or defence of the suit, and also may from time to time adjourn the hearing or further hearing of any cause in such manner as to the Judge may seem fit.

Cross judgment.

15. If there shall be Cross judgments between the parties by reason of a set-off or counter-claim or for any other reason, execution shall be taken out by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered, as well as satisfaction on the judgment for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both judgments.

Where execution may issue.

16. Whenever the Judge shall have made an order for the payment of money not payable by instalments, the Plaintiff, in case of default or failure of payment thereof forthwith may, subject to the provisions of Section 88 of the Ordinance, sue out his writ of Execution for the amount so ordered to be paid without any notice to the Defendant.

If it should appear upon the affidavit of the Plaintiff or his Solicitor that any person or persons against whom a judgment has been obtained is about to leave the Colony before the time ordered for the payment of such judgment debt by

instalments or otherwise it shall be lawful for the Judge to order a Writ of Execution or Judgment Summons to issue forthwith.

17. Writs of Execution issued under the authority of this Ordinance shall be according to the form No. 6 to these rules.

Such Writs of Execution shall remain in force for twelve calendar months from the date of issue and no longer, but a fresh writ may be issued on payment of the fee.

18. If it shall at any time appear to the satisfaction of the Judge by the oath or affirmation of any person or otherwise that the defendant is unable from sickness or other sufficient cause to pay and discharge the debt or damages recovered against him, or any instalment thereof ordered to be paid as aforesaid, it shall be lawful for the Judge in his discretion to suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as the Judge shall think fit, and so from time to time until it shall appear by the like proof as aforesaid that such temporary cause or disability has ceased.

19. Where any part of the chattels of the judgment debtor taken in execution consists of live animals and a claim is made to such live animals the person making such claim shall deposit with the Bailiff the following amount :—

(a.) For each horse or mule	...	...	£2	0	0
(b.) „ ox, bull or cow	...	...	1	10	0
(c.) „ ass	...	...	1	0	0
(d.) For any other animal...	...	...		10	0

Stay of Execution.
Cost of keeping animals levied upon.

The cost of keeping such animals shall be defrayed out of the sum so deposited and any balance shall be returned to the claimant.

20. If such deposit as in the last section provided is not made the Bailiff shall proceed with the execution as if no such claim had been made in respect of such animal unless the Judge shall otherwise order.

21. All goods seized in execution shall unless otherwise ordered by the Court issuing the execution be sold in the district within which the same have been seized.

22. No writ of execution issued under and by virtue of this Ordinance shall be made returnable within any limited or particular time, but the bailiff having the execution of any such writ shall be bound to return such writ within a reasonable time unless he shall receive instructions from the person on whose behalf such writ was issued or from his agent to suspend the execution and return of such writ for any limited or particular time, in which case the bailiff shall suspend the execution and return of such writ for such time as he may have been directed by such person or his agent so to do.

Where goods to be sold.
Return of writ of Execution.

23. In or upon every writ of execution issued the Clerk shall cause to be inserted the sum of money and costs adjudged, with the sums allowed by this Ordinance as increased costs for the issue and execution of such writ and if the party against whom such execution shall be issued shall, before an actual sale of the goods and chattels, or of the lands, tenements and hereditaments pay or cause to be paid or tendered unto such Clerk or to the bailiff such sum of money as costs as aforesaid, or such part thereof as the party entitled thereto shall agree to accept in full of his debt or damages or costs, together with the fees herein directed to be paid, the writ of execution shall be superseded and the goods and chattels, lands, tenements and hereditaments of the said party shall be discharged.

Particulars of writ of Execution.

24. The Clerk for every Court shall cause a note of all summonses, and of all orders, and of all judgments and executions and returns thereto, and of all fines, and of all other proceedings of the Court to be fairly entered from time to time in a book belonging to the Court, which shall be kept at the office of the Court; and such entries in the said book, or a copy thereof purporting to be signed and certified as a true copy by the Clerk, shall at all times be admitted in all Courts and places whatsoever as evidence of such entries and of the proceedings referred to by such entry or entries and of the regularity of such proceeding without any further proof.

Court book.

Cash deposit
book.

25. The Clerk of every Court shall keep a book to be called "the Cash Deposit Book" of his Court, in which shall be entered day by day all moneys paid in by any party to any action for the use or benefit of any other party, and such entries shall specify in the order following the date of each payment, the title of the cause in which the payment is made, the name of the party paying and the amount of the payment, and there shall be three additional columns, in two of which shall be entered upon the monies being paid out, the date of the money being so paid out, and the name of the party receiving the same, and in the last of such columns the party so receiving such money shall sign his name in acknowledgment of such receipt, and such cash deposit book shall remain exposed at all times in the room or office in the case of the Petty Civil Court of Port-of-Spain in the office of the Clerk, and in other cases in the room or office in which the Judge usually holds his Court and shall at all times be open to the inspection of any and every person asking for the same, and every person shall have the right to inspect the same and take any note or extract of any entry therein without the payment of any fee or reward.

Forms.

26. The several Forms hereto appended shall be used as far as practicable for the purposes in such Forms respectively mentioned.

Short title.

27. These Rules may be cited as the Petty Civil Court Rules.

FORMS.

No. 1.

	IN THE COURT OF	Between	[Ordinary Summons.] No.
		and	Plaintiff,
			Defendant.
You are hereby summoned to appear at the Court of on the day of 190 , at the hour of in the noon to answer the Plaintiff in an action of the particulars of which are hersunto annexed.			Chief Clerk.
Dated this day of 190 .			£ s. d.
	Debt or Claim ...	...
	Cost of Summons ...	...
	Solicitor's Fee ...	...
			£

You are to produce all letters, accounts, bills, memoranda, documents, pass-books and papers in your possession relating to this action. If you do not appear on the above-named day, judgment will be given against you in default for the whole amount claimed.

TAKE NOTICE that payment of the amount sued for herein will be accepted by instalments of payable on the

Plaintiff or Plaintiff's Solicitor.

To the defendant.

Solicitor to Plaintiff is Mr. _____ of _____

If you confess the Plaintiff's claim you should sign a confession thereof in the presence of the Chief Clerk or one of the clerks at any time before the action is called on for trial, subject to the payment of any further costs which any delay by you may have caused the plaintiff to incur.

If you admit part only of the Claim, you may by paying into the Chief Clerk's Office the amount so admitted, two clear days before the day of trial, together with costs, avoid further costs, unless the plaintiff at the trial proves an amount exceeding your payment.

Summonses for witnesses and for the production of documents by them will be issued upon application at the Chief Clerk's Office, upon payment of the proper fee.

Bring this summons with you when you come to the Court or to the Chief Clerk's Office for any purpose connected with this action.

INDORSEMENT ON COPY OF ORDINARY SUMMONS AFTER SERVICE.

This Summons was served on the above-named Defendant at _____ by leaving the same at _____ on the _____ day of 190 at _____ o'clock of the _____ noon.
Boilif.

[Default Summons.] No. 2.

IN THE COURT OF

Between

No.

Plaintiff.

and

Defendant.

TAKE NOTICE that unless within seven clear days after personal service of this summons on you, you return to the Chief Clerk of this Court at the notice given below, dated and signed by yourself or your Solicitor, you will not afterwards be allowed to make any defence to the claim which the plaintiff makes on you, as per margin, the particulars of which are hereunto annexed; but the plaintiff may, without giving further proof in support of such claim than the affidavit filed in Court herein, proceed to judgment and execution. If you return such notice to the Chief Clerk within the time specified, the Chief Clerk will send you, by post, notice of the day upon which the action will be tried.

Dated this day of 190 .

	£	s.	d.
Claim	...		
Court Fees	...		
Solicitor's Fees...			
Total	...		

Chief Clerk.

TAKE NOTICE that payment of the amount sued for herein will be accepted by instalments of payable on the

Plaintiff or Plaintiff's Solicitor.

To the Defendant.

[N.B.—This summons must be personally served on the defendant within a period of six months from the date of service.]

NOTICE OF INTENTION TO DEFEND.

In the District Court of

No.

VERSUS

I intend to defend this Action.

Dated this day of 190 .

Defendant or Defendant's Solicitor.

If you pay the debt and costs, as per margin on the other side, into the Chief Clerk's Office, within seven clear days after the date of the service of this summons, and without returning the notice of intention to defend, you will avoid further costs.

If you do not return the notice of intention to defend, but allow judgment against you by default, the order upon such judgment will be to pay the debt and costs forthwith or by instalments.

If you admit a part only of the claim, you must return the notice of intention to defend within the time specified on the summons; and you may by paying into the Chief Clerk's office at the same time the amount so admitted together with costs, avoid further costs, unless the plaintiff at the trial prove an amount exceeding your payment.

Summonses to Witnesses and for the production of documents by them will be issued upon application at the Chief Clerk's office, upon payment of the proper fee.

Bring this summons with you when you come to the Court or to the Chief Clerk's office for any purpose connected with this action.

INDORSEMENT ON COPY OF DEFAULT SUMMONS AFTER SERVICE.

This Summons was served by personally on at on the
day of 190 at o'clock of the noon.

Baillif.

No. 8.

[Default Summons on Bill of Exchange, &c.]

IN THE

COURT OF

No.

Between

Plaintiff,

and

Defendant.

TAKE NOTICE that unless within ten clear days after personal service of this Summons on you, you obtain leave from the Judge of this Court to defend this action, the Plaintiff may proceed to judgment and execution.

Dated this day 190 .

Chief Clerk.

To the Defendant.

N.B.—This Summons must be personally served on the Defendant within *six calendar months from the date hereof*.

INDORSEMENT TO BE MADE ON THE SUMMONS BEFORE SERVICE THEREOF.

The Plaintiff claims £ for principal and interest [or £ balance of principal and interest] due to him as payee [or endorsee] of a Bill of Exchange [or Promissory Note], a copy of which is hereto annexed and also £ for noting and bank expenses, and the sum of £ for Court fees [and for Solicitor's costs herein]. And if the amount of these be paid to the Chief Clerk of the Court four days from the service hereof, no further proceedings will be taken.

Leave to defend, to be endorsed on the back hereof, may be obtained upon application to the Judge of this Court, supported by Affidavit, showing that there is a defence to the action on the merits, or disclosing facts that the Defendant should be allowed to defend the action.

TAKE NOTICE that payment of the amount sued for herein will be accepted by instalments of payable on the

Plaintiff or Plaintiff's Solicitor.

If you pay the amount sued for into the Chief Clerk's Office, within ten clear days after the date of service of this Summons you will avoid further costs.

If you do not apply for, or do not obtain leave to defend, the order upon the judgment will be to pay the debt and costs forthwith or by instalments.

If you admit a part only of the claim, you may, if you get leave to defend, by paying into the Chief Clerk's Office at the same time the amount so admitted together with costs, avoid further costs, unless the Plaintiff at the trial proves at the trial an amount exceeding your payment.

Summonses for Witnesses and for the production of documents by them will be issued upon application at the Chief Clerk's Office, upon payment of the proper fee.

Bring this summons with you when you come to the Court or to the Chief Clerk's Office for any purpose connected with this action.

LEAVE TO DEFEND AND NOTICE OF TRIAL.

You having obtained leave to defend this Action, take notice that the same will be tried in the above Court on day of 190 at the hour of in the noon.

Chief Clerk of the Court.

To the Defendant.

INDORSEMENT ON COPY OF DEFAULT SUMMONS AFTER SERVICE.

This Summons was served by personally on at on the
day of 190 , at o'clock of the noon.

Bastiff.

[Summons to Witness.] No. 4.

IN THE COURT OF

No.

Between

Plaintiff,

and

Defendant.

You are hereby required to attend at the Petty Civil Court of _____ on the _____ day of _____ 190____, at the hour of _____ in the _____ noon, to give evidence in the above action on behalf of the _____ and also to bring with you and produce at the time and place aforesaid the several documents hereunder specified and all other books, papers, writings and other documents relating to the above action which may be in your custody, possession, or power. In default of doing so you will be liable to a penalty of £5.

Dated this _____ day of _____ 190_____.

Chief Clerk.

To _____

[Notice to parties added.] No. 5.

IN THE COURT OF

No.

Between

Plaintiff,

and

Defendant.

I hereby give you notice that by an Order of this Court dated the _____ day of _____ 190____, you were ordered to be added as a _____ in the above action, a copy of the Summons in which is hereby annexed.

And further take notice that the hearing of the above action has been adjourned to the _____ day of _____ 190____, at _____ o'clock in the forenoon, and that if you do not attend at the above Court upon the day and at the hour above-mentioned, either in person or by your Solicitor, such Order will be made and proceedings taken as the Judge shall think fit.

Dated this _____ day of _____ 190_____.

Chief Clerk.

To _____

[Writ of Execution.] No. 6.

IN THE COURT OF

No.

Between

Plaintiff,

and

Defendant.

To the Marshal or Bailiff of the said Court.

These are to require you forthwith to cause Execution to be made and levied, according to Law on the movable, and in default thereof, on the immovable property of the said _____ to the amount of £ _____

	£	s.	d.
Debt
Interest
Solicitor's Fee
Costs
Execution Fee
Marshal

£ _____

Given at the above Court, this _____ day of _____ 190____.

By the Court,

Judge.

No. 7.

[Conveyance of Lands to Purchaser.]

KNOW ALL MEN by these Presents, That I Judge of the Petty Civil Court of
by virtue of the proceedings had before me in an action wherein was Plaintiff
and was Defendant, have sold and adjudicated to of a certain parcel of
and of the said situate in together with the dwelling-house and other buildings
thereon, for the sum of which sum has been well and truly paid to Chief
Clerk of the said Court by the said And therefore I do by these Presents in pursuance
of the Ordinance in that behalf, and by virtue of the powers thereby given to me, convey and
transfer unto the said and his heirs all that said parcel of land situate in con-
taining by admeasurement (or estimation) and abutting together with the
dwelling-house belonging, to have and to hold the same unto the said his heirs and
assigns for ever.

In witness whereof I have hereunto set my hand at this day of in
the year of Our Lord 190 .

Judge of the Court of

Signed in the presence of

No. 8.

[Notice of Discontinuance.]

IN THE COURT OF

No.

Between

Plaintiff,

and

Defendant.

TAKE NOTICE that I shall not proceed further in this action and that I hereby with-
draw from the same.

Dated this day of 190

Plaintiff.

To

No. 9.

[Confession of Claim.]

IN THE COURT OF

No.

Between

Plaintiff,

and

Defendant.

I , the above-named Defendant, do hereby confess and admit that the sum of £
the amount claimed [or part of the amount claimed] by the Plaintiff in this action is due to
him from me [and that I will pay the same by instalments of .]

Dated this day of 190 .

Signed in the presence of

The above-named Defendant.

No. 10.

[Interpleader Summons.]

IN THE COURT OF

No.

Between

Plaintiff,

and

Defendant.

Claimant.

WHEREAS has made a claim to certain goods and chattels taken in execution
under process issuing out of this Court in this action, you are hereby summoned to appear at
a Court to be held on the day of 190 at the hour of in the
noon when the said claim will be adjudicated upon, and such order made thereupon as to the
Judge shall seem fit.

Dated this day of 190 .

Chief Clerk.

To the above-named

[Affidavit for leave to defend Default Summons.] No. 11.

IN THE COURT OF

No.

Between.

Plaintiff,

and

Defendant.

I, , the above-named defendant, make oath and say as follows :

1.
2. On the grounds above-stated I am advised and verily believe that I have a good defence to this action on the merits to the whole of the plaintiff's claim [or to so much of the plaintiff's claim] as relates to the sum of £

Sworn at

[Affidavit of debt on Default Summons.] No. 12.

IN THE COURT OF
No. of 190 .

Between

Plaintiff,

and

Defendant.

I, the above-named plaintiff, make Oath and say that the above-named defendant is indebted to me in the sum of £ for
Sworn at the Chief Clerk's Office at Port-of-Spain this day of 190 .

Plaintiff.

Or when Affidavit is made by a Clerk :—

I make Oath and say that I am a person in the employ of the above-named plaintiff, and that I am duly authorized by him to make this Affidavit, and that it is within my own knowledge that the aforesaid debt of £ was incurred for and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

Sworn at the Chief Clerk's Office at Port-of-Spain this day of 190 .

[Notice of Trial of Default Summons.] No. 13.

IN THE COURT OF

No.

Between

Plaintiff,

and

Defendant.

TAKE NOTICE that this action will be tried in the above Court on the day of 190 at the hour of in the noon.

Chief Clerk.

To

TABLE OF FEES.

COURT FEES :

£ s. d.

Issuing Summons ... 0 4 0

Summons for Witness ... 0 1 0

Issuing Writ of Execution... 0 1 0

For every Conveyance of land; fee to be applied in stamps

to Conveyance by party obtaining same ... 0 5 0

N.B.—The above fees shall be the only fees to be charged throughout the entire process of the action.

SOLICITOR'S FEES :

Where the claim is for a Liquidated Demand—

£ s. d.

On every Summons where the subject matter or sum recovered or amount claimed shall not exceed £2 10 ... 0 5 0

Where the subject matter or sum recovered or amount claimed shall exceed £2 10 but does not exceed £5 ... 0 7 6

Where the subject matter or sum recovered or amount claimed shall exceed £5 ... 0 10 0

Where the claim is for an Unliquidated Demand—

Where the sum recovered is £5 or upwards ... 1 1 0

In every other case: any amount not exceeding One Guinea.

For settling Particulars of Claim, when necessary ... 0 1 0

COSTS OF WITNESSES :

Such costs to be allowed for witnesses as the Judge shall direct.

E. G. R.
7/17/02



